



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 23, 2017

Return Receipt Requested

In Reply Refer to:

EPA File No. 01R-00-R6

Certified Mail #70153010000112676109

Neil J. Carman, Ph.D.
Clean Air Program Director
Lone Star Chapter of Sierra Club
1202 San Antonio Street
Austin, Texas 78701

Certified Mail #70153010000112675881

Reverend Roy Malveaux
People Against Contaminated Environments
Shining Star Baptist Church
590 Elgie Street
Beaumont, Texas 77705

Certified Mail #70153010000112675850

Marianne Engelman-Lado, Esq.
Visiting Clinical Professor of Law
Yale Law School
127 Wall Street
New Haven, Connecticut 06511

Certified Mail #70153010000112675867

Jonathan J. Smith, Esq.
Earthjustice
48 Wall Street
19th Floor
New York, New York 10005

Re: Resolution of Administrative Complaint, EPA File No. 01R-00-R6

Dear Dr. Carman, Reverend Malveaux, Ms. Engelman-Lado, and Mr. Smith:

Dr. Carman, Reverend Malveaux, Ms. Engelman-Lado, and Mr. Smith

This letter is to inform you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement (Agreement) entered into between EPA and the Texas Commission on Environmental Quality (TCEQ). On December 21, 2000, EPA accepted complaint No. 01R-00-R6, that alleged discrimination based on race in violation of Title VI and EPA regulation at 40 C.F.R. Part 7, relating to the 1999 issuance of a modification of a Clean Air Act (CAA) Permit for a hydrocracker unit at the ExxonMobil refinery in Beaumont, Texas.

Accordingly, EPA accepted for investigation:

Whether TCEQ discriminated on the basis of race by allowing ExxonMobil to use inappropriate decreases in its netting calculations for the modification, thereby avoiding a permit hearing, and thus disproportionately denying African Americans the opportunity to participate in the permit process; and

Whether TCEQ issued a permit modification that resulted in disparate distribution of adverse health impacts from increased air pollution emissions, specifically VOCs, SO₂, PM₁₀, NO_x, and H₂S.

During the course of EPA's investigation, TCEQ agreed to enter into an Informal Resolution Agreement in order to resolve this complaint.¹ The enclosed Agreement is entered into by TCEQ and the EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, and EPA regulation found at 40 C.F.R. Part 7. It resolves complaint No. 01R-00-R6. It is understood that the Agreement does not constitute an admission by TCEQ or a finding by EPA of violations of 40 C.F.R. Part 7.

The enclosed Agreement does not affect TCEQ's continuing responsibility to comply with Title VI or other federal nondiscrimination laws and EPA's regulation at 40 C.F.R. Part 7 nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth ECRCO's disposition of the complaint. This letter is not a formal statement of ECRCO policy and should not be relied upon, cited, or construed as such.

It is important to note that minimizing both the number and duration of emissions events from the ExxonMobil Beaumont refinery due to process or equipment upsets presents an ongoing opportunity for TCEQ to address the concerns raised by the residents in this complaint. EPA encourages TCEQ's efforts to track and investigate emissions events or upsets at the refinery, as appropriate, where reportable quantities of hydrogen sulfide and other air contaminants are released; in order to minimize the potential exposure of residents in neighborhoods adjacent to the facility.

¹ See ECRCO's Case Resolution Manual regarding informal resolution of complaints, at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

Dr. Carman, Reverend Malveaux, Ms. Engelman-Lado, and Mr. Smith

In closing, as is ECRCO's current practice, during the course of this investigation ECRCO reviewed TCEQ's policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA's nondiscrimination regulation, public participation policies and procedures, as well as required policies and procedures to ensure meaningful access to TCEQ programs and activities for persons with disabilities and limited-English proficiency. The details of this work will be addressed under a separate process.

If you have any questions, please feel free to contact me at (202) 564-9649, by e-mail at dorka.lilian@epa.gov, or U.S. mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

Cc:

Kenneth Redden, Acting Associate General Counsel
Civil Rights & Finance Law Office
U.S. EPA Office of General Counsel

Samuel Coleman, Acting Regional Administrator
U.S. EPA Region 6

David Gray, Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 6



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

**EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL**

**INFORMAL RESOLUTION AGREEMENT
between the
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ECRCO Complaint No. 01R-00-R6**

I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and United States Environmental Protection Agency's (EPA) regulation at 40 C.F.R. Part 7 prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance. The Texas Commission on Environmental Quality (TCEQ, formerly the Texas Natural Resource Conservation Commission) is a recipient of federal financial assistance from the EPA and is subject to the provisions of Title VI and 40 C.F.R. Part 7.
- B. On December 21, 2000, EPA accepted complaint No. 01R-00-R6, brought under Title VI and EPA's regulation at 40 C.F.R. Part 7, that alleged discrimination based on race in violation of Title VI. In response to the complaint, EPA began an investigation of TCEQ's compliance with Title VI and EPA regulation. During the course of EPA's investigation, TCEQ agreed to enter into an Informal Resolution Agreement (Agreement) in order to resolve this complaint.
- C. This Agreement is entered into by TCEQ and EPA's External Civil Rights Compliance Office (ECRCO).
- D. This Agreement is entered into pursuant to the authority granted EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and EPA regulation found at 40 C.F.R. Part 7, and resolves complaint No. 01R-00-R6 and additional concerns identified by EPA. It is understood that this Agreement does not constitute an admission by TCEQ of a violation of, or a finding of compliance or noncompliance by EPA with, Title VI and EPA's regulation at 40 C.F.R. Part 7.
- E. TCEQ is committed to carrying out its responsibilities in a nondiscriminatory manner and in accordance with the requirements of Title VI and the other federal non-discrimination laws enforced by EPA regulation at 40 C.F.R. Part 7.

II. BACKGROUND

- A. On December 21, 2000, EPA accepted complaint No. 01R-00-R6, that alleged discrimination based on race in violation of Title VI and EPA regulation at 40 C.F.R. Part 7, relating to the 1999 issuance of a modification of a Clean Air Act (CAA) Permit for a hydrocracker unit at the ExxonMobil refinery in Beaumont, Texas.
- B. In response to the complaint described in Section I Paragraph B, EPA initiated an investigation of TCEQ's compliance with Title VI and EPA regulation at 40 C.F.R. Part 7. The investigation addressed allegations that TCEQ discriminated on the basis of race by allowing ExxonMobil to use inappropriate decreases in its netting calculations for the modification, thereby avoiding a permit hearing, and thus disproportionately denying African Americans the opportunity to participate in the permit process; and issuing a permit modification that resulted in a disparate distribution of the adverse health impacts from the increased air pollution emissions, specifically VOCs, SO₂, PM₁₀, NO_x, and H₂S.
- C. TCEQ has responded to all inquiries from EPA regarding the complaint and, in addition to numerous meetings and teleconferences, has provided EPA with:
 - 1. Over 500 pages of supporting documentation in two letters in response to an EPA inquiry in the latter part of 2010;
 - 2. ExxonMobil's Standard Operating Procedure for Personal H₂S Monitors and Community Action Panel Guidelines; and
 - 3. Information on TCEQ's environmental complaints process, data on the type and quantity of historical environmental complaints, and TCEQ response times in the Beaumont area.
- D. EPA acknowledges that since the initiation of this investigation, TCEQ has made changes to public notice requirements which have increased the opportunity for public engagement in the permitting process. Additionally, TCEQ has revised and clarified definitions relating to netting and New Source Review requirements since 2000 to ensure that both industry and the public know what is required during the permitting process. Information is carefully reviewed by TCEQ to ensure that all relevant state and federal requirements are met, including those relating to netting. Changes to the State Implementation Plan (SIP) – approved public participation requirements that have occurred since the complaint was originally filed, including the requirement for two notice periods for both minor and major New Source Review case-by-case permitting actions, have increased opportunities for interested persons to review and comment on such permitting applications.
- E. EPA acknowledges that since the initial Title VI complaint was filed, a significant reduction in NO_x, SO₂, and VOC emissions has occurred at the ExxonMobil Beaumont refinery, based on company reported emission inventories. Some of these

emissions reductions are due in part to EPA's National Petroleum Refinery Initiative, which began in 2000, and resulted in a National Settlement (Consent Decree) with ExxonMobil in December 2005. The Consent Decree required the Beaumont refinery to operate a Wet Gas Scrubber and Thermal DeNOx system on the Fluidized Catalytic Cracking Unit (FCCU) to control sulfur dioxide, particulates, and nitrogen oxides. The Consent Decree included provisions that reduced nitrogen oxide emissions from selected larger heaters and boilers and enhancement to the existing Flare Gas Recovery System to minimize routine flaring.

- F. Based on emissions inventory reports that the ExxonMobil Beaumont refinery submits to TCEQ every year, actual emissions of H₂S have decreased overall since the initial Title VI complaint was filed in 2000. Additionally:
1. The ExxonMobil Beaumont refinery has reduced its allowable permitted levels of SO₂ under its transition to a flexible permit, reducing the SO₂ permitted allowable emissions in 1999 from 13,874 tons per year (tpy) to 2,163 tpy in 2013. The ExxonMobil refinery consolidated six construction permits in the 2010-2011 timeframe which resulted in an H₂S permitted allowable emissions cap of 16.31 tpy for 550 emission points.
 2. The Beaumont area has achieved attainment of NAAQS, including the one-hour ozone NAAQS, which was replaced in 1997 by the eight-hour ozone standard and the 1997, 2008, and 2015 eight-hour ozone NAAQS; and
 3. TCEQ established the Air Pollutant Watch List (APWL) to monitor and address areas in the state where air emissions were persistently monitored at levels above TCEQ regulatory standards and are of potential concern. TCEQ uses the APWL to reduce levels of air emissions of concern by focusing its resources on areas in the state with the greatest need. Beaumont was on TCEQ's APWL for H₂S from 2002 until 2009 and for SO₂ from 2003 until 2016. Beaumont was removed from the APWL for both pollutants because there were no exceedances of the Texas regulatory standard for either pollutant over a significant period of time.
 4. Also, since the filing of the Title VI complaint, EPA has updated the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for the petroleum refinery sector several times requiring maximum achievable control technology for hazardous air pollutants (HAP) emissions, and more recently the petroleum refinery sector risk and technology review updated the NESHAP rules to require continuous monitoring of benzene concentrations at the fence line to ensure that refineries appropriately manage HAP emissions from fugitive emission sources, such as leaking equipment and wastewater treatment operations. This requirement applies to the ExxonMobil Beaumont refinery and other refineries in Texas.

- G. During the negotiation of this Agreement, TCEQ has agreed to add H₂S monitoring to its monitor location near the ExxonMobil refinery in Beaumont. The current site of that monitor had to be moved due to issues with the site lease for the monitor. A new site agreement has been reached for relocation and redeployment of a monitor in the area. The monitor will be in operation within 90 days of the signing of this Agreement. The monitor will be located at 598 Craig Street, Beaumont, Texas. Data for this monitor will be available to the public and can be accessed by visiting TCEQ's website at: http://www.tceq.texas.gov/cgi-bin/compliance/monops/select_curlev.pl?user_param=88502&user_metro=9&user_average. In addition to the H₂S data, the public will have access to data on Volatile Organic Compounds (VOCs).
- H. As is ECRCO's current practice, during the course of this investigation, ECRCO reviewed TCEQ's policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA's non-discrimination regulation, public participation policies and procedures, as well required policies and procedures to ensure meaningful access to TCEQ programs and activities for persons with disabilities and limited-English proficiency. The details of this work will be addressed under a separate process.

III. SPECIFIC TCEQ COMMITMENTS

- A. Within 1 year after the effective date of this Agreement, TCEQ shall hold at least two community meetings directed at residents of Beaumont Texas, particularly those residing in the Charlton-Pollard neighborhood. TCEQ shall disseminate information about community meetings through mailing or house-to-house distribution of flyers announcing the meetings to, at a minimum, all residents of the Charlton-Pollard neighborhood and posting the time, date, location, and purpose of upcoming meetings on the TCEQ website.
1. TCEQ shall ensure that locations selected for meetings are accessible to persons with mobility impairments and that individuals who require a reasonable accommodation due to disability will be accommodated to participate in such meetings. Additionally, TCEQ will consider whether meeting information needs to be provided in languages other than English and whether any language assistance is necessary during meetings.
 2. The planned community meetings will both include a discussion of recent air quality monitoring data. Additionally, the following topics in any order will be covered over the course of the two meetings:
 - a. TCEQ's permitting process and opportunities for public involvement;
 - b. How to access and interpret air quality monitoring data;
 - c. TCEQ's environmental complaints process for members of the public; including how to contact TCEQ; what information must be provided; how

- the agency responds to complaints; and how to follow the status of a complaint after it is made;
 - d. How members of the public may submit useful information to TCEQ; and
 - e. How evidence collected by members of the public is used by TCEQ in enforcement.
- B. At TCEQ's discretion, the agency may hold more than two meetings to address community concerns.

IV. GENERAL

- A. In consideration of TCEQ's implementation of commitments and actions described in Section III of this Agreement, EPA will end its investigation of the complaint No. 01R-00-R6 and not issue a decision containing findings on the merits of the complaint.
- B. If the terms of this Agreement are satisfied, then within 30 days of TCEQ providing the certification in Section IV Paragraph D below, EPA will issue a letter documenting closure of its monitoring actions in complaint No. 01R-00-R6 and closure of the complaint as of the date of that letter.
- C. EPA will, upon request, provide technical assistance to TCEQ regarding any of the civil rights nondiscrimination obligations previously referenced.
- D. Within 30 days of completion of the commitments identified under Section III, TCEQ will certify the completion of each commitment consistent with the timeframes in Section III by certified mail to the Director, External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.

V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- B. Service of any documents required by this Agreement shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
- C. Electronic documents submitted by TCEQ to EPA via email shall be sent to the following email address: Dorka.Lilian@epa.gov. Documents submitted by TCEQ to EPA shall be sent to the Director, External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.

- D. Documents submitted by EPA to TCEQ shall be sent to the Office of Chief Clerk, Texas Commission on Environmental Quality, Mail Code 105, P.O. Box 13087, Austin, TX 78711-3087.

VI. EFFECT OF THE AGREEMENT

- A. TCEQ understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement.
- B. TCEQ understands that EPA will not close its monitoring of this Agreement until EPA determines that TCEQ has fully implemented this Agreement and that a failure to satisfy any term in this Agreement may result in EPA re-opening an investigation.
- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to TCEQ's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement by the Executive Director of TCEQ and the Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between TCEQ and EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by TCEQ and EPA in accordance with the provisions of Section VI Paragraph C above.
- E. This Agreement does not affect TCEQ's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's regulation at 40 C.F.R. Part 7, including § 7.85, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaint or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Executive Director, in his capacity as an official of TCEQ, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of ECRCO has the authority to enter into this Agreement.

On behalf of the Texas Commission on Environmental Quality,



Richard Hyde, Executive Director

5-23-2017

(Date)

On behalf of the U.S. Environmental Protection Agency,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

5.22.2017

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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In Reply Refer to:

EPA File No. 01R-00-R6

Richard A. Hyde, P.E.
Executive Director
Texas Commission on Environmental Quality
MC-109
P.O. Box 13087
Austin, Texas 78711-3087

Re: Resolution of Administrative Complaint, EPA File No. 01R-00-R6

Dear Executive Director Hyde:

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Accordingly, EPA accepted for investigation:

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In closing, as is ECRCO's current practice, during the course of this investigation ECRCO reviewed TCEQ's policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA's nondiscrimination regulation, public participation policies and procedures, as well as required policies and procedures to ensure meaningful access to TCEQ programs and activities for persons with disabilities and limited-English proficiency. The details of this work will be addressed under a separate process.

ECRCO is committed to working with TCEQ as it implements the provisions of the Agreement. We want to thank TCEQ staff for its cooperation and collaboration in reaching this Agreement. If you have any questions, please feel free to contact me at (202) 564-9649, by e-mail at dorka.lilian@epa.gov, or U.S. mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

¹ See ECRCO's Case Resolution Manual regarding informal resolution of complaints, at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

Richard A. Hyde, P.E

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

Cc:

Kenneth Redden, Acting Associate General Counsel
Civil Rights & Finance Law Office
U.S. EPA Office of General Counsel

Samuel Coleman, Acting Regional Administrator
U.S. EPA Region 6

David Gray, Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 6



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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**EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
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II. BACKGROUND

- A. On December 21, 2000, EPA accepted complaint No. 01R-00-R6, that alleged discrimination based on race in violation of Title VI and EPA regulation at 40 C.F.R. Part 7, relating to the 1999 issuance of a modification of a Clean Air Act (CAA) Permit for a hydrocracker unit at the ExxonMobil refinery in Beaumont, Texas.
- B. In response to the complaint described in Section I Paragraph B, EPA initiated an investigation of TCEQ's compliance with Title VI and EPA regulation at 40 C.F.R. Part 7. The investigation addressed allegations that TCEQ discriminated on the basis of race by allowing ExxonMobil to use inappropriate decreases in its netting calculations for the modification, thereby avoiding a permit hearing, and thus disproportionately denying African Americans the opportunity to participate in the permit process; and issuing a permit modification that resulted in a disparate distribution of the adverse health impacts from the increased air pollution emissions, specifically VOCs, SO₂, PM₁₀, NO_x, and H₂S.
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emissions reductions are due in part to EPA's National Petroleum Refinery Initiative, which began in 2000, and resulted in a National Settlement (Consent Decree) with ExxonMobil in December 2005. The Consent Decree required the Beaumont refinery to operate a Wet Gas Scrubber and Thermal DeNOx system on the Fluidized Catalytic Cracking Unit (FCCU) to control sulfur dioxide, particulates, and nitrogen oxides. The Consent Decree included provisions that reduced nitrogen oxide emissions from selected larger heaters and boilers and enhancement to the existing Flare Gas Recovery System to minimize routine flaring.

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 4. Also, since the filing of the Title VI complaint, EPA has updated the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for the petroleum refinery sector several times requiring maximum achievable control technology for hazardous air pollutants (HAP) emissions, and more recently the petroleum refinery sector risk and technology review updated the NESHAP rules to require continuous monitoring of benzene concentrations at the fence line to ensure that refineries appropriately manage HAP emissions from fugitive emission sources, such as leaking equipment and wastewater treatment operations. This requirement applies to the ExxonMobil Beaumont refinery and other refineries in Texas.

- G. During the negotiation of this Agreement, TCEQ has agreed to add H₂S monitoring to its monitor location near the ExxonMobil refinery in Beaumont. The current site of that monitor had to be moved due to issues with the site lease for the monitor. A new site agreement has been reached for relocation and redeployment of a monitor in the area. The monitor will be in operation within 90 days of the signing of this Agreement. The monitor will be located at 598 Craig Street, Beaumont, Texas. Data for this monitor will be available to the public and can be accessed by visiting TCEQ's website at: http://www.tceq.texas.gov/cgi-bin/compliance/monops/select_curlev.pl?user_param=88502&user_metro=9&user_average. In addition to the H₂S data, the public will have access to data on Volatile Organic Compounds (VOCs).
- H. As is ECRCO's current practice, during the course of this investigation, ECRCO reviewed TCEQ's policies and procedures regarding its foundational nondiscrimination program, including the procedural safeguards required by EPA's non-discrimination regulation, public participation policies and procedures, as well required policies and procedures to ensure meaningful access to TCEQ programs and activities for persons with disabilities and limited-English proficiency. The details of this work will be addressed under a separate process.

III. SPECIFIC TCEQ COMMITMENTS

- A. Within 1 year after the effective date of this Agreement, TCEQ shall hold at least two community meetings directed at residents of Beaumont Texas, particularly those residing in the Charlton-Pollard neighborhood. TCEQ shall disseminate information about community meetings through mailing or house-to-house distribution of flyers announcing the meetings to, at a minimum, all residents of the Charlton-Pollard neighborhood and posting the time, date, location, and purpose of upcoming meetings on the TCEQ website.
1. TCEQ shall ensure that locations selected for meetings are accessible to persons with mobility impairments and that individuals who require a reasonable accommodation due to disability will be accommodated to participate in such meetings. Additionally, TCEQ will consider whether meeting information needs to be provided in languages other than English and whether any language assistance is necessary during meetings.
 2. The planned community meetings will both include a discussion of recent air quality monitoring data. Additionally, the following topics in any order will be covered over the course of the two meetings:
 - a. TCEQ's permitting process and opportunities for public involvement;
 - b. How to access and interpret air quality monitoring data;
 - c. TCEQ's environmental complaints process for members of the public; including how to contact TCEQ; what information must be provided; how

- the agency responds to complaints; and how to follow the status of a complaint after it is made;
 - d. How members of the public may submit useful information to TCEQ; and
 - e. How evidence collected by members of the public is used by TCEQ in enforcement.
- B. At TCEQ's discretion, the agency may hold more than two meetings to address community concerns.

IV. GENERAL

- A. In consideration of TCEQ's implementation of commitments and actions described in Section III of this Agreement, EPA will end its investigation of the complaint No. 01R-00-R6 and not issue a decision containing findings on the merits of the complaint.
- B. If the terms of this Agreement are satisfied, then within 30 days of TCEQ providing the certification in Section IV Paragraph D below, EPA will issue a letter documenting closure of its monitoring actions in complaint No. 01R-00-R6 and closure of the complaint as of the date of that letter.
- C. EPA will, upon request, provide technical assistance to TCEQ regarding any of the civil rights nondiscrimination obligations previously referenced.
- D. Within 30 days of completion of the commitments identified under Section III, TCEQ will certify the completion of each commitment consistent with the timeframes in Section III by certified mail to the Director, External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.

V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- B. Service of any documents required by this Agreement shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
- C. Electronic documents submitted by TCEQ to EPA via email shall be sent to the following email address: Dorka.Lilian@epa.gov. Documents submitted by TCEQ to EPA shall be sent to the Director, External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.

- D. Documents submitted by EPA to TCEQ shall be sent to the Office of Chief Clerk, Texas Commission on Environmental Quality, Mail Code 105, P.O. Box 13087, Austin, TX 78711-3087.

VI. EFFECT OF THE AGREEMENT

- A. TCEQ understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement.
- B. TCEQ understands that EPA will not close its monitoring of this Agreement until EPA determines that TCEQ has fully implemented this Agreement and that a failure to satisfy any term in this Agreement may result in EPA re-opening an investigation.
- C. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to TCEQ's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement by the Executive Director of TCEQ and the Director of ECRCO.
- D. This Agreement constitutes the entire Agreement between TCEQ and EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by TCEQ and EPA in accordance with the provisions of Section VI Paragraph C above.
- E. This Agreement does not affect TCEQ's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's regulation at 40 C.F.R. Part 7, including § 7.85, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaint or address any other matter not covered by this Agreement.
- F. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Executive Director, in his capacity as an official of TCEQ, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of ECRCO has the authority to enter into this Agreement.

On behalf of the Texas Commission on Environmental Quality,



Richard Hyde, Executive Director

5-23-2017

(Date)

On behalf of the U.S. Environmental Protection Agency,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

5.22.2017

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 15, 2017

Return Receipt Requested:

Certified Mail#: (b) (6)

In Reply Refer to:

EPA File No. 03D-17-R4

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

Barbourville, KY 40906

Re: Rejection of Administrative Complaint

Dear (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

The U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO), initially received correspondence from you on November 29, 2016, alleging that Kentucky Energy and Environment Cabinet (KY EEC) discriminated against you based on your disability. In your complaint, you alleged that KY EEC failed to investigate your report of fumes emanating from the auto body shop near your home. Specifically, you stated that KY EEC failed to accommodate your disability when you attempted to submit evidence to support your claim. After careful review, ECRCO has concluded that an investigation in this case is not justified in light of the facts presented. Accordingly, this matter is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

In addition to the above factors, ECRCO will also consider whether a complaint allegation (including any additional information provided by the Complainant) provides information

sufficiently grounded in fact. Where a complaint allegation is not sufficiently grounded in fact, ECRCO may conclude that an investigation is unjustified, and may reject a complaint on this basis.

In light of your November 30, 2016 email expressing concern over whether EPA had received all the material you submitted to the Department of Justice and prior to making its jurisdictional determination, ECRCO contacted you on December 6, 2016 and April 20, 2017 to discuss your complaint and request additional information. Specifically, ECRCO requested an explanation of when and how KY EEC discriminated against you based on your disability. You explained the interaction with KY EEC and reiterated points from your original correspondence. You alleged that the, failure of the KY EEC investigator to remain in your home and watch your footage of the fumes in its entirety discriminated against you on the basis of your disability.

However, in evaluating your description of the alleged discriminatory act and the facts you have presented, ECRCO cannot accept your administrative complaint for investigation, as the allegation is not sufficiently grounded in fact. Specifically, your complaint alleged that due to your lack of mobility the KY EEC investigator's departure from your home without watching the video discriminated against you because it left you with no alternate way to provide the video to KY EEC. However, your complaint stated that you had previously submitted a similar video to KY EEC via a URL in an email and that KY EEC staff confirmed for you that they could view that video. Accordingly, ECRCO is closing this case as of the date of this letter.

If you have any questions about this correspondence, please contact Zahra Khan, Case Manager, at (202) 564-0460, by e-mail at khan.zahra@epa.gov or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Kenneth Lapierre
Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 15, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 6116

In Reply Refer to:

EPA File No: 03D-17-R4

Aaron Keatley
Commissioner
Department of Environmental Protection
Kentucky Energy and Environment Cabinet
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601

Re: Rejection of Administrative Complaint

Dear Mr. Keatley:

On November 29, 2016, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received a complaint alleging that Kentucky Energy and Environment Cabinet (KY EEC) failed to investigate a report of fumes emanating from an auto body shop near a residential home. The Complainant specifically alleges that KY EEC engaged in discrimination by failing to accommodate a person with a disability's attempt to submit evidence supporting the report of fumes. After careful review, ECRCO has concluded that an investigation in this case is not justified in light of the facts presented. Accordingly, this matter is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient

of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

In addition to the above factors, ECRCO will also consider whether a complaint allegation (including any additional information provided by the Complainant) provides information sufficiently grounded in fact. Where a complaint allegation is not sufficiently grounded in fact, ECRCO may conclude that an investigation is unjustified, and may reject a complaint on this basis.

In light of concerns raised by the Complainant over whether ECRCO had received all the material submitted by her prior to making its jurisdictional determination, ECRCO contacted the Complainant to request additional information. Specifically, ECRCO requested an explanation of when and how KY EEC discriminated against the Complainant based on disability. After evaluating the information provided, ECRCO cannot accept this complaint for investigation, as the allegation is not sufficiently grounded in fact. Specifically, the complainant alleged that due to lack of mobility the KY EEC investigator's departure from the home without watching the video discriminated against the Complainant because she was left with no alternate way to provide the video to KY EEC. However, the complainant stated that she had previously submitted a video to KY EEC via a URL in an email and that KY EEC staff confirmed to her that they could watch the video. Accordingly, ECRCO is closing this case as of the date of this letter.

If you have any questions about this correspondence, please contact Zahra Khan, Case Manager, at (202) 564-0460, by e-mail at khan.zahra@epa.gov or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Kenneth Lapierre
Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

July 7, 2017

Return Receipt Requested

Certified Mail# 70153010000112676017

Misael Cabrera, P.E.
Director
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, AZ 85007

Re: Closure of Administrative Complaints, EPA File Nos. 03R-07-R9 and 11R-98-R9

Dear Director Cabrera:

This letter is to advise you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is resolving and closing, as of the date of this letter, administrative complaint 03R-07-R9 and 11R-98-R9 against the Arizona Department of Environmental Quality (ADEQ). The complaints generally alleged that ADEQ violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d et seq. (Title VI) and the EPA's nondiscrimination regulation found at 40 Code of Federal Regulations (C.F.R.) Part 7.

EPA ECRCO is responsible for enforcing several federal civil rights laws that prohibit discrimination on the bases of race, color, national origin (including limited-English proficiency), disability, sex and age in programs or activities that receive federal financial assistance from the EPA.

Closure of Administrative Complaint, EPA File Number 03R-07-R9

The complaint in EPA File Number 03R-07-R9 was filed on March 28, 2007, by Don't Waste Arizona and Concerned Residents of South Phoenix under Title VI and EPA's implementing regulation at 40 C.F.R. Part 7. The complaint alleged ADEQ and the Maricopa County Air Quality Department (MCAQD)¹ discriminated against Hispanic and African American residents of South Phoenix through the operation of their Clean Air Act permitting programs. Specifically, the complaint alleged that "ADEQ has issued permits for portable sand and gravel outfits (aggregate mining), cement batch plants, and asphalt batch plants to operate in Maricopa

¹ The allegations against MCAQD are addressed separately and not within this letter.

County and especially in areas . . . adjacent to an overwhelmingly” Hispanic and African American “population that is disproportionately and adversely affected by documented high levels of particulate matter pollution. The ADEQ yet has failed to administrate, manage and/or maintain a system whereby these same portable permitted facilities are monitored, including a systematic lack of inspections of these permitted facilities and a systematic lack of emissions reports of these permitted facilities.”²

On May 27, 2008, ECRCO accepted the following for investigation: Whether ADEQ violated Title VI and EPA’s nondiscrimination regulations by failing to inspect certain permitted facilities and failing to require emissions reports of these same facilities. As discussed below, ECRCO finds insufficient evidence of current noncompliance with Title VI and EPA’s implementing regulation. Accordingly, EPA File Number 03R-07-R9 is closed as of the date of this letter.

Pursuant to the investigation of the allegation, EPA examined how ADEQ’s portable source program is implemented (with respect to permitting and compliance) when subject sources are located in Maricopa County. Specifically, EPA examined whether ADEQ has established and is implementing procedures that clearly articulate that ADEQ, as the permitting agency, is primarily responsible for all inspections of these portable sources, including verification of proper emissions reporting, where applicable, how complaints referred by other agencies are addressed, and for tracking the physical location of such portable sources throughout a given permit term.

During its investigation, ECRCO gathered and reviewed information relevant to the complaint. This information included the complaint submitted to ECRCO, and information submitted by ADEQ on October 26, 2009, September 21, 2010, and September 8, 2015. In addition, EPA held meetings with ADEQ on October 19, 2016 and February 24, March 16 and June 21, 2017, to obtain additional information.

ECRCO found that ADEQ has jurisdiction over portable sources that operate in multiple counties or in a county without a local air pollution control program.³ ECRCO also found that MCAQD has jurisdiction over portable equipment operated solely in that county.⁴ However, despite the recognized jurisdictions of ADEQ and MCAQD, ECRCO found that there was no written agreement between the two agencies as to how complaint response and enforcement was coordinated (*e.g.*, for portable sources under ADEQ jurisdiction but operating within Maricopa County).

During the course of ECRCO’s investigation, and to address this concern, ADEQ, in coordination with MCAQD, developed the Air Quality Complaint Inspection Referral Procedure, with both agencies as signatories. The Procedure clearly describes each agency’s authority and responsibilities in dealing with portable equipment inspections when there are jurisdictional

² Complaint letter received by EPA on March 28, 2007, EPA File No. 03R-07-R9, pp. 1-2 & 6; December 6, 2007 Complainants’ Response to EPA Request for Clarification, p.6.

³ Arizona Revised Statutes, Title 49, Chapter 1, Article 1, Sections 49-107; 40-401.01; 49-402. Also see ADEQ website at: <http://legacy.azdeq.gov/enviro/air/permits/assist.html>.

⁴ Maricopa County Air Pollution Control Regulation II, Section 410.1.

issues involved. Notably, for example, the Procedure provides step-by-step instructions for field staff to follow when they come upon a possible portable source violation that is not under their agency's jurisdiction. The Procedure covers jurisdictional determinations, inspections and information gathering, the process for conducting visible emissions observations, referral procedures, and how to follow up with the other agency involved.⁵

To further support effective enforcement communication between ADEQ and MCAQD, ADEQ has implemented an electronic permitting system (MyDEQ) in response to EPA's Cross-Media Electronic Reporting Rule (CROMERR).⁶ In July 2016, ADEQ began using MyDEQ to address the types of portable sources identified in the complaint, thereby replacing the previous paper permitting and tracking system for all portable source permittees.⁷ In implementing this system, ADEQ provided access to MCAQD and other local government agencies. The MyDEQ system uses a series of questions designed to ensure that ADEQ and MCAQD receive accurate and timely information about location, equipment, and equipment operation from permittees.

MyDEQ addresses issues regarding inspections and emissions reporting which were also raised in the complaint. Under the MyDEQ system, sources report their locations electronically, thereby allowing inspection staff to readily locate and identify equipment. This is superior to a paper-based system, especially when dealing with portable equipment, which can be moved frequently and in and out of different jurisdictions. MyDEQ also allows the source to submit equipment-specific and emissions information, such as equipment type, capacity, make and model, serial number, date of manufacture, hours of operation, and tonnage of throughput.

MyDEQ further ensures that the facility receives a permit from the correct agency. For instance, if the permittee is moving, a compliance certification is required to ensure that the source is meeting its permit terms. The permit is then issued electronically and ADEQ permit and compliance staff are electronically notified. ADEQ is also electronically notified regarding annual compliance certifications and permit terminations. If a particular portable source will operate for the duration of its permit term solely in Maricopa County, it must obtain a permit from MCAQD.⁸ If it will operate in Maricopa County in addition to other counties during its permit term, it must obtain a permit from ADEQ. State-issued permits for sources located in Maricopa County need to meet the air quality requirements established by Maricopa County (which are more stringent than elsewhere in the State).

The implementation of the Air Quality Complaint Inspection Referral Procedure and the implementation and availability of the MyDEQ system indicate that ADEQ's portable source enforcement program has changed since the South Phoenix complaint was filed. In light of the changes to ADEQ's programs and activities, as well as commitments ADEQ has made during

⁵ ADEQ reported that it has an inspector in the field by 4 a.m. with the ability to adjust his schedule to cover complaints involving night time operations of permitted sources. In addition, ADEQ can require other inspectors to adjust their schedules if a complaint requires it.

⁶ CROMERR is an EPA rule that establishes standards for information systems that receive reports and other documents electronically under EPA-authorized programs. More detail on the CROMERR program can be found at <https://www.epa.gov/cromerr>.

⁷ Additional information about MyDEQ can be found at: <http://www.azdeq.gov/mydeq/home>.

⁸ MCAQD Rule 200 § 410.1.

the course of this investigation, ECRCO finds insufficient evidence of current non-compliance with Title VI or EPA's Title VI regulation. Therefore, ECRCO is closing the complaint as of the date of this letter.

ADEQ's Non-Discrimination Program

During the course of this investigation, as is ECRCO's current practice, ECRCO reviewed ADEQ's compliance with the requirements of EPA's non-discrimination regulation,⁹ which sets forth the foundational elements of a recipient's non-discrimination program. These include: continuing notice of non-discrimination under 40 C.F.R. § 7.95; adoption of grievance procedures that assure the prompt and fair resolution of complaints alleging civil rights violations under 40 C.F.R. § 7.90; and the designation of at least one person to coordinate its efforts to comply with its non-discrimination obligations under 40 C.F.R. § 7.85(g).

ECRCO also reviewed the programs, policies, and guidance ADEQ is implementing to ensure it provides meaningful access for persons with limited English proficiency¹⁰ and persons with disabilities¹¹ to all its programs and activities that receive federal financial assistance from EPA, including its public participation process.¹²

As a result of discussions with EPA over the last several months, ADEQ developed a foundational non-discrimination program. As a result of ADEQ's efforts, the ECRCO review found the following:

- a. Notice of Nondiscrimination – EPA's nondiscrimination regulation requires initial and continuing notice that the recipient does not discriminate on the basis of race, color national origin, or disability in a program or activity receiving EPA assistance or, in programs covered by Section 13 of the Education Amendments, on the basis of sex.¹³ ADEQ's main

⁹ 40 C.F.R. Part 7, Subpart D.

¹⁰ On June 25, 2004, EPA issued *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (LEP Guidance). The LEP guidance clarifies recipient's existing legal obligations to provide meaningful access to limited English proficient persons in all programs and activities that receive federal financial assistance from EPA. The LEP guidance also provides a description of the factors recipients should consider in fulfilling their responsibilities to limited English proficient persons to ensure meaningful access to recipients' programs and activities and the criteria EPA uses to evaluate whether recipients are in compliance with Title VI and the Title VI implementing regulation. <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>.

¹¹ See 40 C.F.R. §§ 7.45 – 7.55, 7.65

¹² On March 21, 2006, EPA published its *Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* (Public Involvement Guidance) which was developed for recipients of EPA assistance implementing environmental permitting programs. It discusses various approaches, and suggests tools that recipients may use to enhance the public involvement aspects of their current permitting programs. It also addresses potential issues related to Title VI and EPA's regulation implementing Title VI. https://www.epa.gov/sites/production/files/2013-09/documents/title6_public_involvement_guidance.3.13.13.pdf.

¹³ 40 C.F.R. § 7.95.

website page now contains a “Civil Rights” link¹⁴ to its Notice of Nondiscrimination.¹⁵ In addition, by selecting a language from a drop-down menu, on the web page, the page will display in a number of languages, including Spanish. In addition, ADEQ reports that this Notice is prominently displayed in ADEQ’s offices.¹⁶ The Notice describes the procedures to file a discrimination complaint with ADEQ and how to contact the ADEQ Nondiscrimination Program Coordinator for assistance.

- b. Grievance Procedures - EPA’s nondiscrimination regulation requires that each recipient adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violations of the nondiscrimination regulation.¹⁷ ADEQ’s website contains a Nondiscrimination Policy for Programs, Activities and Services and Grievance Procedures (“Grievance Procedures”)¹⁸ in English and Spanish that can be found by accessing the Civil Rights link on ADEQ’s main web page.¹⁹ The Grievance Procedures describe the process for individuals to file a complaint of discrimination with ADEQ. ADEQ’s Grievance Procedures assure that it promptly and fairly resolves complaints utilizing a preponderance of the evidence standard.²⁰ To initiate the grievance process, ADEQ has developed a complaint form in English and Spanish, which is accessible on its website via a link on the bottom of its main web page.²¹

ADEQ reports that it is developing the capability to accept different types of complaints from individuals against ADEQ directly from its main website page, including complaints under Title VI and other federal nondiscrimination laws, for implementation by late Fall 2017. Currently, ADEQ’s “File A Complaint” option, which is located in the form of a click-button near the top of ADEQ’s main web page only allows individuals to file environmental complaints. ADEQ maintains that once the new customer complaints system is in place, the “File A Complaint” function will clearly inform the public of its ability to file Title VI and other nondiscrimination complaints. This development will also provide more prominent access to civil rights information from ADEQ’s main website page by moving the link to civil rights information further up on the page from the link’s current location.

- c. Nondiscrimination Coordinator – EPA recipients are required to have a nondiscrimination coordinator to oversee their nondiscrimination program.²² On its website, ADEQ has

¹⁴ <http://www.azdeq.gov/>

¹⁵ This notice can be found in ADEQ’s Civil Rights Program Policy, found at <http://www.azdeq.gov/CivilRights> and http://static.azdeq.gov/legal/VI_policy.pdf.

¹⁶ ADEQ Civil Rights Program Policy, at 2, found at http://static.azdeq.gov/legal/VI_policy.pdf.

¹⁷ 40 C.F.R. § 7.90 (each recipient with 15 or more employees shall adopt grievance procedures that assure the prompt and fair resolution of complaints).

¹⁸ Nondiscrimination Policy for Programs, Activities and Services and Grievance Procedures, found at http://static.azdeq.gov/legal/grievance_policy.pdf and http://static.azdeq.gov/legal/grievance_policy_sp.pdf.

¹⁹ <http://www.azdeq.gov/>

²⁰ Grievance Procedures, at 3.1.5.5, found at http://static.azdeq.gov/legal/grievance_policy.pdf

²¹ Title VI Discrimination Complaint Form, at <http://static.azdeq.gov/legal/civilrightsform.pdf> and http://static.azdeq.gov/legal/Civil_Rights_Form_sp.pdf.

²² 40 CFR § 7.85(g) (if a recipient employs 15 or more employees, it must designate at least one nondiscrimination coordinator).

identified Ian Bingham as its Nondiscrimination Coordinator and has provided a contact number and email address for him.²³ Within its Civil Rights Program Policy, ADEQ has confirmed that its Nondiscrimination Coordinator is charged with ensuring ADEQ's compliance with federal non-discrimination laws and ensuring that information regarding ADEQ's Nondiscrimination Program is internally and externally available; maintaining public notice of, and procedures for receipt and processing of complaints; receiving and logging complaints; training department staff on ADEQ's Nondiscrimination Program and procedures; informing complainants about the progress of investigations; and periodically reviewing the efficacy of ADEQ's Nondiscrimination Program.²⁴

- d. Limited English Proficiency (LEP) – ADEQ has developed an LEP policy referencing EPA's LEP Guidance. ADEQ's policy is contained within ADEQ's Civil Rights Program Policy, which is available on its website.²⁵ The LEP policy outlines ADEQ's commitment to provide meaningful access to LEP individuals to its programs and activities. In doing so, ADEQ undertook an analysis of its LEP population within its service area.²⁶ Since ADEQ has identified Spanish speakers as the major LEP language group in Arizona, ADEQ's efforts primarily focus on ensuring key materials and services are available in both English and Spanish.²⁷ ADEQ's Policy also states that it will accommodate the needs of other LEP (non-Spanish speaking) persons through contracts for LEP services.²⁸ To ensure that key materials and services are available to LEP individuals, EPA notes that it is essential provide good guidance and training for managers on the "key materials" that should be translated for purposes of Title VI.
- e. Individuals with Disabilities – In ADEQ's Civil Rights Program Policy, ADEQ describes the analysis it has undertaken of its population who have identified as individuals with disabilities. ADEQ has committed to providing meaningful access to individuals with disabilities to department programs and activities.²⁹ ADEQ states that it provides appropriate auxiliary aids and services to disabled persons who are deaf or hard of hearing and other individuals upon request at no cost to ensure effective communication and an equal opportunity to participate fully in the ADEQ decision making processes.³⁰
- f. Public Participation – ADEQ has developed a public participation policy, which is set forth in its Civil Rights Program Policy. ADEQ states that it strives to provide for meaningful public involvement in all of its programs, no matter the location of the program in the State of Arizona or the community potentially impacted.³¹ ADEQ notes that in order for public involvement to be meaningful, it requires informing, consulting and working with potentially

²³ <http://www.azdeq.gov/CivilRights>

²⁴ ADEQ Civil Rights Program Policy, at 3, found at http://static.azdeq.gov/legal/VI_policy.pdf.

²⁵ *Id.* at 3-4, 5-6 and Attachment D.

²⁶ ADEQ Civil Rights Program Policy, at Attachment D, found at http://static.azdeq.gov/legal/VI_policy.pdf.

²⁷ *Id.* at 4.

²⁸ *Id.* at 5.

²⁹ *Id.* at 3-4, 5-6 and Attachment D.

³⁰ *Id.* at 5.

³¹ *Id.* at 4.

affected communities at various stages of the decision making process in order to understand and address concerns.³²

ADEQ explains that when developing public participation plans, it evaluates the following: community demographics and other statistics; media sources (considering, for example, local media and community groups); need for and location of public meetings considering accessibility and availability of public transportation; and the need for language assistance services for LEP persons and accommodations for persons with disabilities.³³

ADEQ reported that it undertook a demographic analysis of its population and states that its development and distribution of public notices and planning for public meetings/ hearings regarding ADEQ actions considers the LEP and disabled populations in the areas impacted by the ADEQ action or program. ADEQ states that it provides access to phone menu and voicemail options in Spanish, as well as access to Spanish-speaking representatives. It further ensures the availability of key materials and services in Spanish, including compliance and enforcement brochures, compliance training schedule information, TV and radio announcements and newspaper articles and press releases among other materials.

Based on the foregoing, ECRCO has determined that ADEQ's actions taken during the pendency of this complaint regarding its environmental enforcement program, its response to environmental complaints, as well as its nondiscrimination program, as described above, have resulted in significant changes to the overall circumstances since the filing of this complaint. Accordingly, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation. Therefore, ECRCO is closing complaint number 03-07-R9 as of the date of this letter.

Closure of Administrative Complaint, EPA File Number 11R-98-R9

The complaint in EPA File Number 11R-98-R9 was filed on October 13, 1998, by Sanford Lewis, on behalf of United Paperworkers International Union (UPI)³⁴ and (b) (6), (b) (7)(C)³⁵ under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's implementing regulations at 40 C.F.R. Part 7.³⁶ The complaint generally alleged that Arizona Department of Environmental Quality's (ADEQ) issuance of a permit to Arizona Portland Cement Company in Rillito, now known as CalPortland Cement Rillito Plant (hereinafter referred to as "CalPortland"),³⁷ discriminated against nearby African American and Hispanic residents by causing a disproportionate and adverse risk to residents' health. In

³² *Id.*

³³ ADEQ Public Participation Program Checklist: Title VI Nondiscrimination; ADEQ Civil Rights Program Policy, at 5, found at http://static.azdeq.gov/legal/VI_policy.pdf

³⁴ We note that United Paperworkers International Union withdrew from participation in this complaint in November 2010. Email from Robert Laventure, Director of UPI District 12 to Lynn Agee, Special Counsel, UPI. (November 22, 2010).

³⁵ We also note that (b) (6), (b) (7)(C) is now deceased.

³⁶ Consistent with EPA's regulations, ECRCO offered the Complainants and ADEQ the opportunity to pursue a resolution using alternative dispute resolution (ADR). However, the ADR process was unsuccessful.

³⁷ For the purpose of this letter, the facility will be referenced as "CalPortland" or "the Facility".

addition, the complaint alleged that the permit revision process was conducted in a discriminatory manner because it did not allow for adequate participation by key members of the community.³⁸ With respect to the first issue, ECRCO's investigation found that, pursuant to EPA and ADEQ involvement, significant changes in the operation of this facility were made during the course of this investigation. As such, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation. With respect to the second issue regarding public participation, ECRCO's investigation found insufficient evidence to conclude that ADEQ violated Title VI and EPA's implementing regulation.³⁹

In conducting the investigation, ECRCO gathered and reviewed information relevant to the complaint. This information included the complaint and supplementary information submitted to ECRCO, information received from ADEQ in response to ECRCO's issuance of two information request letters,⁴⁰ and information received through interviews with the Complainant.

Issue 1: Arizona Department of Environmental Quality's (ADEQ) issuance of a permit to CalPortland discriminated against nearby African American and Hispanic residents by causing a disproportionate and adverse risk to residents' health.

Background

CalPortland is a Portland cement plant, a limestone quarry, and a rock and stone aggregate plant. Portland cement is a fine gray powder that binds sand and aggregate into concrete. At CalPortland, cement is produced from various types of minerals, including limestone, and calcium, silica, alumina, and iron. These materials are ground to a fine powder, blended in specific proportions needed for the final cement product, and heated until partially molten at temperatures of approximately 2,700°F in a precalciner⁴¹ cement kiln to produce a pellet-shaped, glass-hard material called clinker.⁴² The clinker is then ground with gypsum to an extremely fine powder, known as Portland cement.

Subsequent to the filing of this complaint, significant additional permitting, enforcement, and rulemaking actions have been implemented which affect the issues involved in this complaint. The facility's permit has been revised several times in order to implement new requirements to address federal maximum achievable control technology requirements for Portland Cement facilities⁴³ and to add enhanced visibility monitoring requirements resulting from the resolution

³⁸ Acceptance of Administrative Complaint letter from Karen D. Higginbotham, Acting Director, ECRCO, EPA to Mr. Sanford Lewis, Complainant. (December 2001).

³⁹ 40 C.F.R. Part 7, Subpart D.

⁴⁰ Email from Bret Parke, Administrative Counsel, ADEQ to Karen Randolph, ECRCO, US EPA, Re: EPA Administrative Complaint (File No. 11R-98-R9), (November 7, 2011 and February 23, 2012).

⁴¹ The precalciner system is a suspension preheater in which, in addition to the kiln flame, extra fuel is burned in the base of the preheater.

⁴² Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona; Docket No. EPA-R09-AR-2013-0588; Air Division, U.S. EPA Region 9, January 27, 2013. pp 87-90.

⁴³ See 40 C.F.R. Part 63, Subpart LLL.

of ADEQ and/or EPA enforcement actions. As explained further below, both ADEQ and EPA took enforcement actions to address noncompliance at the Rillito facility.

The ADEQ enforcement action resulted in the facility paying \$300,000 in civil penalties; being required to conduct annual performance tests to monitor hazardous air pollutant emissions; taking steps to assess raw materials used in the manufacturing process to ensure no future violations of air pollutant limits; and making improvements to enhance air quality in Rillito by applying dust suppressants to an unpaved community road, installing a heating, cooling, ventilation system and air purifiers in the Rillito Community Center, and offering and providing air purifiers to Rillito residents.⁴⁴

The EPA enforcement action required the facility to pay \$350,000 in civil penalties and required that the facility upgrade older kilns and related operations at its plant to reduce the amount of emissions produced or to shut down the older kilns. With respect to rulemaking, EPA's final Federal Implementation Plan to address Arizona Regional Haze,⁴⁵ which covers the activities of CalPortland, requires the installation of advanced emissions controls (selective non-catalytic reduction) that will reduce emissions at kiln 4 (the main stationary source of emissions at the Rillito facility) by 35 percent by the end of 2018 along with stringent associated monitoring, recordkeeping, and reporting requirements.⁴⁶

Current Status

CalPortland currently consists of four dry process rotary kilns (Kilns 1, 2, 3, and 4) and clinker coolers.⁴⁷ The rock and stone aggregate plant is called the Twin Peaks Rock and Stone Aggregate Plant. Particulate emissions are generated throughout the facility from numerous stationary and mobile operations. Particulate emissions also result from fugitive dust generated by activities such as material handling, open storage of materials, rock crushing, paved and unpaved road traffic, and quarry drilling and blasting. The facility uses baghouses and dust collectors throughout its facility, including on Kilns 1- 4, to control particulate emissions. Baghouses and dust collectors are forms of fabric filters used for controlling particulate emissions at efficiencies greater than 98 percent. Kilns 1, 2 and 3 are long kilns, and currently rely on good combustion practices to control NOX emissions. Kiln 4 is a preheater/precalciner kiln. Preheater/precalciner kilns generally use inherent low NOX design features. NOX emissions from Kiln 4 are controlled by low NOx burners with indirect firing and preheater riser duct firing. Preheater riser duct firing is applicable to preheater/precalciner kilns.⁴⁸

⁴⁴ Consent Judgement (Non-classified Civil), Civil Action No. CV2006-016354 (Nov. 7, 2006).

⁴⁵ See 79 Fed. Reg. 52420 (Sept. 3, 2014)

⁴⁶ *Id.*

⁴⁷ Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona; Docket No. EPA-R09-AR-2013-0588; Air Division, U.S. EPA Region 9, January 27, 2013. pp 87-90.

⁴⁸ See 79 Fed. Reg. 9354-9356 (Feb. 18, 2014). For additional detail, see also Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona; Docket No. EPA-R09-AR-2013-0588; Air Division, U.S. EPA Region 9, January 27, 2013. pp 87-90.

According to the Title V operating permit issued by ADEQ, CalPortland's existing kilns 1, 2, 3, and 4 are capable of using a variety of fuels, including solid fuels (coal and petroleum coke), fuel oils, and natural gas. Kiln 4 is also designed to use and has historically used supplemental fuels such as shredded tires and wood chips. Kilns 1-3 have not been operated since early 2008. Emissions that result from the manufacturing of Portland cement at the Rillito Plant include particulates, nitrogen oxides (NOX), and sulfur dioxide (SO₂), and volatile organic compounds (VOC). Virtually all of the NOX and SO₂ emissions, as well as the majority of the particulate emissions, are generated from the kiln systems. A negligible amount of NOX and SO₂ are generated from ancillary combustion equipment at the facility. The facility-wide SO₂ emissions are minimal.⁴⁹

Based on the foregoing, ECRCO has determined that the permitting, enforcement, and rulemaking activities undertaken since the filing of this complaint, including ADEQ's enforcement actions involving the CalPortland facility, have resulted in significant changes to the overall circumstances, including the adverse health risks to residents, alleged in the original complaint. Accordingly, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation.

Issue 2: Lack of Public Participation by Key Members of the Community

ECRCO found that, in 1998,⁵⁰ CalPortland (then Arizona Portland Cement Company or "APCC") applied to ADEQ for a modification of its Air Quality Control Permit for the modernization of its cement manufacturing facility. At the time, the facility included a limestone quarry, a Portland cement manufacturing plant, and a rock and stone aggregate plant.⁵¹ ADEQ Arizona Air Pollution Control regulations, then and currently, require an applicant to post notice of the proposed permit at the site where the source is or may be located. The notice must include technical information and notice of a public hearing, if one is to be held.⁵²

On June 5, 1998, the facility posted a copy of the public notice announcement at the front entrance of its facility, adjacent to the nearest public roadway.⁵³ The notice stated that ADEQ was proposing to issue Air Quality Control Permit Number 1000547 to the facility for the modernization of their cement manufacturing facility located at 1115 N. Casa Grande Highway, Pima County, Arizona. The notice provided technical information about the proposed permit revision, as well as information on the opportunity to submit public comments in writing and orally, including the time and place for the public hearing.⁵⁴

⁴⁹ *Id.*

⁵⁰ *See*

<https://yosemite.epa.gov/R9/air/EPSS.NSF/bd42b872ddae5603882561b0006d69c1/de770204f323e08507256640005c058e!OpenDocument>.

⁵¹ http://www.azdeq.gov/environ/air/permits/title_v/CP/47259/deqsupport.pdf

⁵² Arizona Administrative Code Title 18, Chapter 2, Rule 330(F) (2007).

⁵³ Arizona Portland Cement Company Fax Transmittal Cover Sheet regarding RIMOD III Public Notice Sign with copies of pictures taken of the Public Notice sign near the front entrance of the facility. (July 1, 1998).

⁵⁴ Copy of the Public Notice placed in the *Arizona Daily Star* newspaper (June 5 and 12, 1998).

ECRCO found that, at the time (and currently), ADEQ's public participation regulations for air pollution control permits and permit revisions included provisions regarding the public notice process, when to schedule and conduct public hearings, and the requirement to respond to all comments received.⁵⁵ The regulations specifically required ADEQ to provide public notice of a completed application for permits to construct or make a major modification to major sources by publishing notice in two newspapers of general circulation in the county where the source is or will be located.⁵⁶

On June 2, 1998, ADEQ sent a letter to the Rillito Post Office requesting that copies of the following documents related to the facility and related permits be posted for public review: 1) Public Notice for a Public Hearing; 2) the permit application with supporting documents; and 3) the draft permit with supporting documents and applicable rules. ADEQ asked that these materials be kept where they would be available for viewing by the public and indicated that it would inform the Post Office when to discard the information.⁵⁷

At the time (and currently), ADEQ's regulations required ADEQ to provide at least 30 days from the date of its first notice for public comment. Further, ADEQ must prepare written responses to all comments received.⁵⁸ On July 6, 1998, ADEQ held a public hearing regarding the proposed modification of the facility's permit revision. The hearing was held at Marana Junior High School in Marana, Arizona. A total of 14 members of the public who attended asked questions during the hearing, including the complainant, (b) (6), (b) (7)(C). Before the public hearing concluded, the moderator asked the audience several times whether anyone else wished to speak.⁵⁹ The hearing commenced at 7:12 p.m. and concluded at 8:30 p.m.⁶⁰ After all comments were heard at the July 6, 1998 public hearing, ADEQ encouraged attendees to submit written comments to ADEQ, postmarked by July 10, 1998. In addition, ADEQ provided information about how individuals could submit written comments.⁶¹

On July 10, 1998, the Pima County Board of Supervisors, representing the citizens in the vicinity of the facility, requested that ADEQ extend the public comment period to July 17, 1998, to allow them sufficient time to complete an evaluation of the permit and formally submit comments on the proposed APCC permit revision.⁶² Per the Pima County Board of Supervisors' request, ADEQ extended the review period and accepted written comments, questions, and objections regarding the proposed reissuance of the APCC permit until July 17, 1998.⁶³ On August 7, 1998, ADEQ prepared a document entitled "Responsiveness Summary, Significant Revision No.

⁵⁵ Arizona Administrative Code Title 18, Chapter 2, Rule 330 (2007).

⁵⁶ Arizona Administrative Code Title 18, Chapter 2, Rule 330(B)(C)(D) (2007).

⁵⁷ Letter from Joie L. Estrada, Administrative Secretary, Air Quality Division/Permits Section, ADEQ to Rillito Post Office (June 2, 1998). *See also* Arizona Administrative Code Title 18, Chapter 2, Rule 330 (2007).

⁵⁸ Arizona Administrative Code Title 18, Chapter 2, Rule 330(G) (2007).

⁵⁹ Arizona Portland Cement Company Public Hearing Summary at 7, 13, 14 (July 6, 1998).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Letter from Sharon Bronson, Pima County Supervisor, District 3 to Ms. Nancy C. Wrona, Director, Air Quality Division, ADEQ (July 10, 1998).

⁶³ Responsiveness Summary, Significant Revision No. 10000547 to Air Quality Control Permit No. M191365P1-99 for Arizona Portland Cement Company Arizona Portland Cement Company.

1000547, to Air Quality Control Permit No. M191365P1-99 for Arizona Portland Cement Company.” ADEQ provided copies of the Responsiveness Summary to the parties who participated in the comment period.⁶⁴

The Responsiveness Summary categorized comments received and provided summary responses to written comments and the comments voiced at the July 6, 1998 public hearing.⁶⁵ On August 24, 1998, ADEQ mailed to the participants in the public comment period a Revised Permit package that contained the Revised Permit Certificate, Responsiveness Summary, and Revised Permit.⁶⁶

In sum, based on ECRCO’s review of the record, it appears that all members of the public had (1) notice of the permit revision and related hearing; (2) an opportunity to comment at the hearing; (3) an opportunity to submit written comments, in a comment period that ADEQ extended by request; and (4) an opportunity to review ADEQ’s response to all comments received. Notably, adherence to the requirements in the Arizona Administrative Code alone does not necessarily fulfill ADEQ’s obligation to provide equal opportunity for public participation under Title VI. Here, however, ECRCO found that the facts regarding public participation for this permit revision indicate that ADEQ’s process did provide all members of the public with the same access to detailed, specific information about the proposed permit, as well as the process to voice objections to that permit.

Accordingly, ECRCO has determined that there is insufficient evidence to support the allegation that key members of the community were denied access to public participation and that ADEQ violated Title VI and EPA’s implementing regulation with respect to the public participation issue.

Based on the foregoing analysis of both issues raised in this complaint, ECRCO is closing complaint number 11R-98-R9 as of the date of this letter. This letter sets forth EPA’s disposition of the two referenced complaints. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA appreciates ADEQ’s cooperation in this matter, ADEQ’s work to address air quality issues in the State, and ADEQ’s efforts to ensure that ADEQ has in place the appropriate foundational

⁶⁴ Letter from Sharon Bronson, Pima County Supervisor, District 3 to Ms. Nancy C. Wrona, Director, Air Quality Division, ADEQ (July 10, 1998).

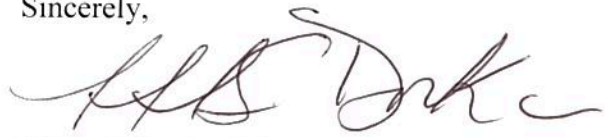
⁶⁵ Responsiveness Summary, Significant Revision No. 10000547 to Air Quality Control Permit No. M191365P1-99 for Arizona Portland Cement Company Arizona Portland Cement Company.

⁶⁶ Email from Bret Parke, Administrative Counsel, ADEQ to Karen Randolph, ECRCO, US EPA, Re: EPA Administrative Complaint (File No. 11R-98-R9), (February 23, 2012). See ADEQ’s Response to Appellants’ Cross Motion for Determination that Permit Revision is Void (November 9, 1998).

Misael Cabrera, Director

elements of a non-discrimination program. Please do not hesitate to contact me at (202) 564-9649, or at Dorka.Lilian@epa.gov, regarding any questions or requests for further technical assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read 'LSDorka', with a stylized flourish at the end.

Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Cc:

Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 9



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

June 7, 2017

Return Receipt Requested

Certified Mail# 70153010000112675911

Philip McNeely
Director
Maricopa County Air Quality Department
1001 N Central Avenue, Suite 125
Phoenix, Arizona 85004

Re: Closure of Administrative Complaint Nos. 03R-07-R9, 10R-07-R9, and 01R-11-R9

Dear Director McNeely:

This letter is to advise you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is resolving and closing, as of the date of this letter, administrative complaints 03R-07-R9, 10R-07-R9, and 01R-11-R9 against the Maricopa County Air Quality Department (MCAQD). The complaints generally alleged that MCAQD violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d et seq. (Title VI) and the EPA's nondiscrimination regulation found at 40 Code of Federal Regulations (C.F.R.) Part 7.

EPA ECRCO is responsible for enforcing several federal civil rights laws that prohibit discrimination on the bases of race, color, national origin (including limited-English proficiency), disability, sex and age in programs or activities that receive federal financial assistance from the EPA.

Closure of Administrative Complaint, EPA File Number 03R-07-R9

The complaint in EPA File Number 03R-07-R9 was filed on March 28, 2007, by Don't Waste Arizona and Concerned Residents of South Phoenix under Title VI and EPA's implementing regulation at 40 C.F.R. Part 7. The complaint alleged MCAQD and the Arizona Department of

Environmental Quality (ADEQ)¹ discriminated against Hispanic and African American residents of South Phoenix through the operation of their Clean Air Act permitting programs.

The complaint alleged that the MACQD's operation of its permit program for "sand and gravel outfits (aggregate mining), cement batch plants, and asphalt batch plants" in South Phoenix disproportionately subjected the predominantly Hispanic and African American populations living near these facilities to "documented high levels of particulate matter pollution," and that it resulted in "severe environmental and public health consequences."²

On May 27, 2008, ECRCO accepted the following for investigation: Whether MCAQD subjected Hispanic and African American populations living near the facilities to discrimination in violation of Title VI and EPA's implementing regulation by failing to respond properly to citizen complaints and/or by failing to inspect properly certain permitted facilities. As discussed below, ECRCO finds insufficient evidence of current noncompliance with Title VI and EPA's implementing regulation. Accordingly, EPA File Number 03R-07-R9 is closed as of the date of this letter.

During its investigation, ECRCO gathered and reviewed information relevant to the complaint. This information included the complaint submitted to ECRCO and information submitted by MCAQD on March 9 and 25, 2009, February 18, 2010, and September 3, 2015, in response to EPA requests. In addition, ECRCO considered EPA's periodic State Review Framework³ ("SRF"), which examined MCAQD's Fiscal Year 2007 environmental compliance and enforcement program and which coincided with the time period during which this Title VI complaint was submitted. The SRF is an EPA program designed to ensure that state compliance and enforcement programs are conducted properly. The SRF found that MCAQD's environmental enforcement practices and procedures met or exceeded EPA's requirements and performance. Specifically, the SRF found that inspection reports clearly identified violations, and where enforcement actions had been taken, violations had been corrected.⁴

Regarding MCAQD's response to citizen complaints of environmental concerns, EPA also reviewed MCAQD's recent practices (years 2010 – 2015) with respect to complaint response. This information documented that, regardless of facility type or location of a particular facility, MCAQD performed environmental complaint response inspections within one to two days of receiving a complaint.⁵

¹ The allegations against ADEQ are addressed separately and not within this letter.

² Complaint letter received by EPA on March 28, 2007, EPA File No. 03R-07-R9, p. 2 & 6; December 6, 2007 Complainants Response to EPA Request for Clarification, p.6.

³ U.S. EPA State Review Framework Final Report for Maricopa County Air Quality Department Fiscal Year 2007, report dated September 28, 2009.

⁴ U.S. EPA SRF for Maricopa County AQD for 2007, Element 4 (Completion of Commitments), Element 6 (Quality of Inspection Reports), Element 7 (Identification of Alleged Violations, and Element 9 (Enforcement Actions Promote Return to Compliance).

⁵ Letter from Philip A. McNeely to Lilian Dorka, dated September 21, 2016.

ECRCO also examined the concern identified in the complaint regarding inspection of ADEQ-permitted portable equipment located within MCAQD's jurisdiction.⁶ ECRCO found that MCAQD has jurisdiction over portable equipment operated solely in that county.⁷ ECRCO also found that ADEQ has jurisdiction over portable sources that operate in multiple counties or in a county without a local air pollution control program.⁸ However, despite the recognized jurisdictions of MCAQD and ADEQ, ECRCO found that there was no written agreement between the two as to how complaint response and enforcement was coordinated (*e.g.*, for portable sources under ADEQ jurisdiction but operating within MCAQD). During the course of ECRCO's investigation, and to address this concern, MCAQD, in coordination with ADEQ, developed the Air Quality Complaint Inspection Referral Procedure, with both agencies as signatories. The Procedure clearly describes each agency's authority and responsibilities in dealing with portable equipment inspections when there are jurisdictional issues involved. Notably, for example, the Procedure provides step-by-step instructions for field staff to follow when they come upon a possible portable source violation that is not under their agency's jurisdiction. The Procedure covers jurisdictional determination, the process of conducting visible emissions observations, referral procedures, and how to follow up with the other agency involved.

To further support effective enforcement communication between MCAQD and ADEQ, ADEQ has implemented an electronic permitting system (MyDEQ) in response to EPA's Cross-Media Electronic Reporting Rule (CROMERR).⁹ In July 2016, ADEQ began using MyDEQ to address the types of portable sources identified in the complaint, thereby replacing the previous paper permitting and tracking system for all portable source permittees.¹⁰ In implementing this system, ADEQ provided access to MCAQD and other local government agencies. The MyDEQ system uses a series of questions designed to ensure that MCAQD and ADEQ get accurate and timely information about location and equipment from permittees. It also ensures that the facility receives a permit from the correct agency. For instance, if the permittee is moving, a compliance certification is required to ensure that the source is meeting its permit terms. The permit is then issued electronically and ADEQ permit and compliance staff are electronically notified. ADEQ is also electronically notified regarding annual compliance certifications and permit terminations. If a particular portable source is to remain in Maricopa County for 5 years, it must obtain a permit from ADEQ. State-issued permits for sources located in Maricopa County need to meet the air quality requirements established by Maricopa County (which are more stringent than elsewhere in the State).

Therefore, with regard to this allegation, ECRCO has determined that MCAQD's actions taken during the course of this investigation to ensure coordination for portable sources under ADEQ jurisdiction, but operating within MCAQD, have resulted in significant changes to the overall

⁶ Complaint letter received by EPA on March 28, 2007, EPA File No. 03R-07-R9.

⁷ Maricopa County Air Pollution Control Regulation II, Section 410.1.

⁸ Arizona Revised Statutes, Title 49, Chapter 1, Article 1, Sections 49-107; 40-401.01; 49-402. Also see ADEQ website at: <http://legacy.azdeq.gov/enviro/air/permits/assist.html>.

⁹ CROMERR is an EPA rule that establishes standards for information systems that receive reports and other documents electronically under EPA-authorized programs. More detail on the CROMERR program can be found at <https://www.epa.gov/cromerr>.

¹⁰ Additional information about MyDEQ can be found at: <http://www.azdeq.gov/mydeq/home>.

circumstances since the filing of this complaint. Accordingly, ECRCO finds insufficient evidence of current non-compliance with Title VI and EPA's implementing regulation.

MCAQD's Non-Discrimination Program

During the course of this investigation, as is ECRCO's current practice, ECRCO reviewed MCAQD's compliance with the requirements of EPA's non-discrimination regulation,¹¹ which sets forth the foundational elements of a recipient's non-discrimination program. These include: continuing notice of non-discrimination under 40 C.F.R. § 7.95; adoption of grievance procedures that assure the prompt and fair resolution of complaints alleging civil rights violations under 40 C.F.R. § 7.90; and the designation of at least one person to coordinate its efforts to comply with its non-discrimination obligations under 40 C.F.R. § 7.85(g).

ECRCO also reviewed the programs, policies, and guidance MCAQD is implementing to ensure it provides meaningful access for persons with limited English proficiency¹² and persons with disabilities¹³ to all its programs and activities that receive federal financial assistance from EPA, including its public participation process.¹⁴

As a result of discussions with EPA over the last several months, MCAQD developed a foundational non-discrimination program. Information regarding MCAQD's program can be found by accessing a link in English and Spanish on its main web page.¹⁵ Specifically, MCAQD has implemented the following:

- a. Notice of Nondiscrimination: EPA's nondiscrimination regulation requires initial and continuing notice that the recipient does not discriminate on the basis of race, color national origin, or handicap in a program or activity receiving EPA assistance or, in programs covered by Section 13 of the Education Amendments, on the basis of sex.¹⁶ MCAQD's main Website page contains a prominent "Nondiscrimination Program" link to its Notice of

¹¹ 40 C.F.R. Part 7, Subpart D.

¹² On June 25, 2004, EPA issued *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (LEP Guidance). The LEP guidance clarifies recipient's existing legal obligations to provide meaningful access to limited English proficient persons in all programs and activities that receive federal financial assistance from EPA. The LEP guidance also provides a description of the factors recipients should consider in fulfilling their responsibilities to limited English proficient persons to ensure meaningful access to recipients' programs and activities and the criteria EPA uses to evaluate whether recipients are in compliance with Title VI and the Title VI implementing regulation. <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>.

¹³ See 40 C.F.R. §§ 7.45 – 7.55, 7.65

¹⁴ On March 21, 2006, EPA published its *Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs* (Public Involvement Guidance) which was developed for recipients of EPA assistance implementing environmental permitting programs. It discusses various approaches, and suggests tools that recipients may use to enhance the public involvement aspects of their current permitting programs. It also addresses potential issues related to Title VI and EPA's regulation implementing Title VI. https://www.epa.gov/sites/production/files/2013-09/documents/title6_public_involvement_guidance.3.13.13.pdf.

¹⁵ EPA reviewed the information found at <http://www.maricopa.gov/1244/Air-Quality>.

¹⁶ 40 C.F.R. § 7.95.

Nondiscrimination in both English and Spanish.¹⁷ In addition, MCAQD reports that this Notice is prominently displayed in MCAQD's offices.¹⁸ The Notice describes the procedures to file a discrimination complaint with MCAQD and how to contact the MCAQD Nondiscrimination Program Coordinator for assistance.

- b. Grievance Procedures - EPA's nondiscrimination regulation requires that each recipient adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violations of the nondiscrimination regulation.¹⁹ MCAQD's website contains a Nondiscrimination Program Policy and Grievance Procedures in English and Spanish that can be readily found by accessing the Nondiscrimination Program link in MCAQD's main web page.²⁰ The Grievance Procedures, which have been revised effective February 28, 2017, describe the process for individuals to file a complaint of discrimination with MCAQD. To initiate the grievance process, MCAQD has developed a complaint form in English and Spanish, which is accessible on its website. MCAQD's Grievance Procedures assure that it promptly and impartially resolves complaints utilizing a preponderance of the evidence standard.
- c. Nondiscrimination Coordinator - EPA recipients are required to have a nondiscrimination coordinator to oversee their nondiscrimination program.²¹ On its website, MCAQD has identified Talia Offord as its Nondiscrimination Coordinator and has provided a contact number and email address for her.²² Within its Nondiscrimination Program Plan, MCAQD has confirmed that its Nondiscrimination Coordinator is charged with ensuring MCAQD's compliance with federal non-discrimination laws and ensures information regarding MCAQD's Nondiscrimination Program is internally and externally available; maintains public notice of, and procedures for receipt and processing of complaints; tracks and reviews complaints received; trains department staff on MCAQD's Nondiscrimination Program and procedures; provides written updates to complainants on the progress of investigations; and periodically reviews the efficacy of MCAQD's Nondiscrimination Program.²³
- d. Limited English Proficiency (LEP) - MCAQD has developed an LEP policy referencing EPA's LEP Guidance. MCAQD's Policy is contained within MCAQD's Nondiscrimination Program Plan, which is available on its website.²⁴ The LEP Policy outlines MCAQD's commitment to provide meaningful access to LEP individuals to its programs and activities. In doing so, MCAQD undertook an analysis of its LEP population within its service area.

¹⁷ MCAQD Nondiscrimination Program Plan, Attachment A, at <http://www.maricopa.gov/DocumentCenter/View/3319>

¹⁸ MCAQD Nondiscrimination Program Policy, at 2, at <http://www.maricopa.gov/DocumentCenter/View/3320>

¹⁹ 40 C.F.R. § 7.90 (each recipient with 15 or more employees shall adopt grievance procedures that assure the prompt and fair resolution of complaints).

²⁰ MCAQD Grievance Procedures, at 3-4, at <http://www.maricopa.gov/DocumentCenter/View/3320>

²¹ 40 CFR § 7.85(g) (if a recipient employs 15 or more employees, it must designate at least one nondiscrimination coordinator).

²² <https://www.maricopa.gov/1514/NondiscriminationNo-Discriminacin-Progra>

²³ MCAQD Nondiscrimination Program Plan, at 5, at <http://www.maricopa.gov/DocumentCenter/View/3319>

²⁴ *Id.* at 5-7, 8-10.

Since MCAQD has identified Spanish speakers as the major LEP language group in Maricopa County, MCAQD's efforts primarily focus on ensuring key materials and services are available in both English and Spanish.²⁵ MCAQD's Policy also states that it will accommodate the needs of other LEP (non-Spanish speaking) persons through contracts for LEP services.²⁶

- e. Individuals with Disabilities – In MCAQD's Nondiscrimination Program Plan, MCAQD describes the analysis it has undertaken of its population who have identified as individuals with disabilities. MCAQD has committed to providing meaningful access to individuals with disabilities to department programs and activities.²⁷ MCAQD states that it provides appropriate auxiliary aids and services to individuals with disabilities, such as those who are deaf or hard of hearing and other individuals as necessary, and interpretation and translation to individuals with LEP, at no cost, to ensure effective communication in decision-making processes and meaningful access MCAQD programs and activities.²⁸
- f. Public Participation – MCAQD has developed a public participation policy, which is set forth in its Nondiscrimination Program Plan.²⁹ MCAQD states that it strives to provide for meaningful public involvement in all of its programs, no matter the location of the program in the county or the community potentially impacted. MCAQD explains that when developing public participation plans, it considers the following factors: community demographics and history; past and present community concerns; need for language assistance services for LEP persons; access to media sources (considering community culture and linguistic needs); need for and location of public meetings; location of the information repository; identification of the department expert(s) and their contact information.³⁰

MCAQD also undertook a demographic analysis, a process to identify community concerns, and a process to provide for contingency planning for unexpected events.³¹ MCAQD provides notice of language assistance services in public meeting notices (including the option mentioned in public notices to request information by calling a telephone number for information in Spanish), and has ensured that it will provide the availability of key materials and services in both English and Spanish, including compliance and enforcement brochures, compliance training schedule information, TV and radio announcements, FAQs, and newspaper articles and press releases among other materials.

Based on the foregoing, ECRCO has determined that MCAQD's actions taken during the pendency of this complaint regarding its environmental enforcement program, its response to environmental complaints and its nondiscrimination program, as described above, have resulted

²⁵ *Id.* at 7, 9.

²⁶ *Id.* at 9.

²⁷ *Id.* at 5, 7-8.

²⁸ *Id.* at 9.

²⁹ *Id.* at 7-10.

³⁰ *Id.* at 8.

³¹ See http://www.maricopa.gov/eq/about/docs/pdf/Title_VI_Plan.pdf.

in significant changes to the overall circumstances since the filing of this complaint. Accordingly, ECRCO finds insufficient evidence of current non-compliance with Title VI or EPA's implementing regulation. Therefore, ECRCO is closing complaint number 03-07-R9 as of the date of this letter.

Closure of Administrative Complaint, EPA File Number 10R-07-R9

The complaint in EPA File Number 10R-07-R9 was filed on September 21, 2007, by Don't Waste Arizona and Concerned Residents of South Phoenix under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's implementing regulation at 40 C.F.R. Part 7. The complaint alleged discrimination against Hispanics and African Americans by MCAQD based on race and national origin in violation of Title VI in the administration of MCAQD's hazardous air pollutant program, as applied to Phoenix Brickyard (PBY) in Phoenix, Arizona.³²

On July 30, 2009, ECRCO accepted the complaint and began an investigation of MCAQD's compliance with Title VI and EPA regulation. During the course of its investigation, ECRCO learned that PBY shut down its manufacturing operations in 2012 (see enclosed Attachment A - MCAQD Air Permit Cancellation/Close Out Request dated April 25, 2012), and is currently a wholesale distributor only. The manufacturing operations have completely ceased and the equipment has been removed. The hydrogen fluoride, the subject contaminant, is no longer being emitted. ECRCO further verified the shutdown of the manufacturing operations by reviewing Maricopa County Air Quality Department's 2014 emissions inventory and found that MCAQD designated PBY as a facility that has permanently closed.³³ In light of the above information, ECRCO has determined that there are no allegations appropriate for further investigation and resolution. Accordingly, ECRCO is administratively closing File Number 10R-07-R9 as of the date of this letter.

Closure of Administrative Complaint, EPA File Number 01R-11-R9

The complaint in EPA File Number 01R-11-R9 was filed on January 26, 2011, by Don't Waste Arizona under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and EPA's implementing regulations at 40 C.F.R. Part 7. The complaint alleged that MCAQD's failure "to properly administer its Title V air pollution program . . . has had severe environmental and public health consequences" on the predominantly Latino residents who live adjacent to Fisher Sand and Gravel.³⁴ On August 14, 2013, EPA accepted for investigation whether MCAQD's penalty against Fisher Sand and Gravel in settling air quality violations

³² On July 30, 2009, ECRCO consolidated its investigation of complaint file numbers 15R-05-R9 and 10R-07-R9. On July 17, 2012, ECRCO closed complaint file number 15R-05-R9. However, ECRCO's letter closing complaint file number 15R-05-R9 at footnote 1 noted that ECRCO would continue processing complaint file number 10R-07-R9.

³⁴ Complaint, at 5 (Jan. 26, 2011).

discriminated against the predominantly Latino community in violation of Title VI and EPA's implementing regulation.

The complaint focused on the discrepancy between a proposed \$6.7 million preliminary penalty and the ultimate penalty levied against Fisher Sand and Gravel in the amount of \$1 million. Complainant alleged that the penalty "ignores the methodology of penalty calculation set forth in MCAQD's published penalty policy. . . at the expense of an entirely ethnic minority community adjacent to the facility."³⁵

In analyzing the issue of whether MCAQD discriminated against the Latino community by ignoring its methodology of penalty calculation, ECRCO looked at whether this action constituted intentional discrimination. Intentional discrimination requires a showing that a "challenged action was motivated by an intent to discriminate."³⁶ In analyzing an intentional discrimination claim, EPA will consider both direct and circumstantial evidence of discriminatory intent. Evidence to be considered may include, among other things, a departure from standard procedure (e.g., failure to consider factors normally considered).

EPA conducted a review of the MCAQD's Violation Penalty Policy and its environmental enforcement case against Fisher Sand and Gravel, including the penalty calculations. As part of the investigation, EPA requested and received information from MCAQD in submissions dated October 2, 2013, and September 3, 2015. EPA determined that MCAQD's penalty calculations against Fisher Sand and Gravel were generally consistent with MCAQD's Violation Penalty Policy³⁷ and EPA guidance.³⁸ In addition, ECRCO found that MCAQD's policy contains provisions to weigh the risk to populations in a consistent manner throughout all communities within its jurisdiction.³⁹

Based on ECRCO's review of all available evidence, ECRCO found that MCAQD acted consistent with its Violation Penalty Policy. Moreover, ECRCO found no direct or circumstantial evidence of discriminatory intent with regard to MCAQD's penalty calculations and the penalty imposed against Fisher Sand and Gravel.⁴⁰ Accordingly, ECRCO finds insufficient evidence of a violation of Title VI and EPA's implementing regulation. EPA File Number 01R-11-R9 is closed as of the date of this letter.

This letter sets forth EPA's disposition of the three referenced complaints. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

³⁵ *Id.* at 3.

³⁶ *Elston v. Talladega Cty. Bd. of Educ.*, 997 F.2d 1394, 1406 (11th Cir. 1993).

³⁷ Maricopa County Air Quality Department Violation Penalty Policy (Jan. 16, 2008), at <http://www.maricopa.gov/DocumentCenter/View/7531>

³⁸ U. S. Environmental Protection Agency Clean Air Act Stationary Source Civil Penalty Policy, October 25, 1991.

³⁹ *Id.* at 2-3.

⁴⁰ From a historical perspective, EPA, in the Fiscal Year 2007 State Review Framework ("SRF") examined MCAQD's application of its penalty policy. At that time, EPA concluded that MCAQD's penalty calculations were generally consistent with EPA's guidance and that MCAQD routinely performed penalty calculations consistent with the policy. Finding 11-1 stated that "In nine of nine files [reviewed] we found the penalty calculations to be generally consistent with EPA guidance on the subject, including gravity and economic benefit." The SRF rated MCAQD's performance in this category as "Good Practice."

Mr. Philip McNeely

EPA appreciates MCAQD's cooperation in this matter, MCAQD's work to address air quality issues in Maricopa County, and MCAQD's efforts to ensure that MCAQD has in place the appropriate foundational elements of a non-discrimination program. Please do not hesitate to contact ECRCO regarding any questions or requests for further technical assistance.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

Cc:

Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 9



Maricopa County
Air Quality Department



Mail or E-mail all Applications to:
MCAQD One Stop Shop
Permit Application Intake
501 N. 44th Street, 2nd Floor
Phoenix AZ 85008-6538
AQPermits@mail.maricopa.gov

AIR PERMIT CANCELLATION / CLOSE OUT REQUEST

(NOT TO BE USED FOR DUST CONTROL PERMITS)

INSTRUCTIONS

Use this form to close out a current stationary source (General, Non-Title V or Title V) air quality permit. Submit the completed application request to the Maricopa County Air Quality Department. Complete the application by typing or printing legibly. All outstanding fees must be paid by the Permittee in full prior to cancellation of the permit.

Respond to each of the following items. Attach additional documents where required.

1. PERMIT NUMBER:	90298	EFFECTIVE DATE OF CLOSURE:	4/30/2012	
2. BUSINESS NAME AND ADDRESS:	NAME:	CLINTON-CAMPBELL CONTRACTOR INC. (Phoenix Brick Yard)		
	ADDRESS:	1814 South 7 th Avenue		
	CITY:	Phoenix	AZ	ZIP CODE: 85007
3. PERMIT CONTACT:	NAME:	Don Campbell		
	ADDRESS:	1814 South 7 th Avenue		
	CITY:	Phoenix	STATE: AZ	ZIP CODE: 85007
TELEPHONE NUMBER:	(602) 258 7158	E-MAIL:		
4. REASON FOR CLOSE OUT:				
<input checked="" type="checkbox"/> OUT OF BUSINESS <input type="checkbox"/> ALL PERMITTED EQUIPMENT PERMANENTLY DISCONNECTED / REMOVED FROM SITE <input type="checkbox"/> NEW OWNER NEW OWNER NAME: <input type="text" value="None"/> PERMIT #: <input type="text"/>				
<input checked="" type="checkbox"/> OTHER/SPECIFY: <div style="border: 1px solid black; padding: 5px; display: inline-block;"> Will cease to manufacture brick (SIC 3251) no later than April 30, 2012. Natural gas line has been permanently severed, therefore there can be no production. Permanent shutdown was necessary due to market conditions and the cost of production including environmental compliance costs </div>				
5. Submit payment of any fees due, or past due, to MCAQD before the approval of the permit close out. For questions regarding billing, call One Stop Shop at (602) 372-1071.				

CERTIFICATION BY THE PERMIT HOLDER:

6. THE AUTHORIZED CONTACT PERSON REGARDING THIS APPLICATION IS:		
NAME:	Don Campbell	
TITLE:	President	
7. I CERTIFY THAT THE INFORMATION PROVIDED IN THIS APPLICATION AND ACCOMPANYING DOCUMENTS IS TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE.		
SIGNATURE OF OWNER OR RESPONSIBLE OFFICIAL OF BUSINESS:		DATE: 4-25-12



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 29, 2017

Return Receipt Requested

Certified Mail #: (b) (6) - Privacy

In Reply Refer to:

EPA File No: 04R-16-R4

(b) (6), (b) (7)(C)

Winterville, GA 30683

Re: Rejection/Closure of Administrative Complaint

Dear (b) (6), (b) (7)(C)

On October 30, 2015, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received your administrative complaint alleging that the African American residents of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) in Athens, Georgia are being subjected to discrimination on the basis of race by due to fluoridation of the municipal water supplies without being informed of the whole body fluoride dosing risks in violation of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulation found at 40 C.F.R Part 7. After careful review, ECRCO has concluded that an investigation in this case is not justified in light of the facts presented. Accordingly, this matter is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient

of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

In addition to the above factors, ECRCO will also consider whether a complaint allegation (including any additional information provided by the Complainant) provides information sufficiently grounded in fact. Where a complaint allegation is not sufficiently grounded in fact, ECRCO may conclude that an investigation is unjustified, and may reject a complaint on this basis.

Your original correspondence did not contain sufficient information to establish EPA's jurisdiction. Accordingly, ECRCO contacted you on February 11, 2016, via certified mail to request additional clarification regarding your allegation of discrimination, specifically, we requested that you provide the identity of the entity that you believe is responsible for the alleged discrimination in violation of Title VI, and the specific date(s) that the alleged discriminatory act(s) occurred. In Addition, I personally wrote to you several times via email (three times on February 24, 2016 and again on February 29, 2016) to discuss information you submitted via email after receiving our February 11, 2016 letter, which did not respond to our request for clarification. On March 10, 2016, you wrote to me and Sam Peterson of my staff that, "[d]iscrimination has clearly occurred in GA by forced fluoridation and across the nation." On March 14, 2016, in an email addressed to former Office of Civil Rights Director, Velveta Howell you wrote, "[p]lease see the most recent update on GA EPD below that is relevant to my discrimination fluoridation complaint. GA EPD continues to intentionally contaminate municipal water supplies with chemical compounds to fluoridate, and promote expansion of these corrosive neurotoxic agents that stress already crumbling water infrastructures and remain persistent in the environment."

In evaluating your description of the alleged discriminatory act contained in your original complaint as well as subsequent correspondence, ECRCO has determined that it cannot accept your administrative complaint for investigation as the allegation is conclusory and not sufficiently grounded in fact. Specifically, the facts you have presented remain unclear regarding what exactly you are alleging is the discriminatory act resulting in discrimination on the basis of race, and who is allegedly responsible for that act. Accordingly, ECRCO is closing this case as of the date of this letter.

If you have any questions about this correspondence, please contact Samuel Peterson, Case Manager, at (202) 564-5393, by e-mail at peterson.samuel@epa.gov or by mail at U.S. EPA Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Kenneth Lapierre
Assistant Regional Administrator
Deputy Civil Rights Official,
U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 3, 2017

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 5126

In Reply Refer to:

EPA File No: 06X-17-R5 (WSPF/WDOC)

Steven Rosenbaum
Chief
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Re: Referral of Administrative Correspondence

Dear Mr. Rosenbaum:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is referring a complaint received November 30, 2016 from Complainant (b) (6), (b) (7)(C) a prisoner incarcerated at the Wisconsin Secure Program Facility (WSPF) under the Wisconsin Department of Corrections (WDOC). (b) (6), (b) (7)(C) alleges that the unsanitary vent and sewage systems in his prison cell are causing him respiratory and other health issues. ECRCO cannot accept his complaint for investigation, because neither WSPF, nor WDOC are recipients of EPA financial assistance. As this complaint does not fall within the ECRCO's jurisdiction, ECRCO must reject the complaint and close it as the date of this letter.

As the U.S. Department of Justice (DOJ) may have jurisdiction over WDOC and/or WSPF, ECRCO is referring this complaint to your office for appropriate action. We have notified (b) (6), (b) (7)(C) that his complaint is being forwarded to DOJ and provided your contact information. A copy of our rejection letter as well as (b) (6), (b) (7)(C) original complaint are enclosed.

If you have any questions about this correspondence, please contact Zahra Khan, Case Manager, at (202) 564-0460, by e-mail at khan.zahra@epa.gov or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosures

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 3, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 6079

In Reply Refer to:

EPA File No. 06X-17-R5 (WDOC)

Jon E. Litscher
Secretary
Wisconsin Department of Corrections
3099 E. Washington Avenue
Madison, WI 53704

Re: Rejection of Administrative Correspondence

Dear Secretary Litscher:

On November 30, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office, received a complaint against Wisconsin Department of Corrections (WDOC) from a prisoner incarcerated at the Wisconsin Secure Program Facility (WSPF). The complaint alleges that there are unsanitary vent and sewage systems in the Complainant's prison cell causing the Complainant respiratory and other health issues. Complainant also alleges that the drinking water serviced to the prison facility is unsafe to drink. After careful review, ECRCO cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. However, the complaint is being referred to the U.S. Department of Justice (DOJ).

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of complaints to determine acceptance, rejection, or referral (See 40 C.F.R. § 7.120(d) (1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e. an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

The complaint did not meet the jurisdictional requirements of the EPA's nondiscrimination regulation. Particularly, the WDOC is not a recipient of EPA financial assistance. As a result, ECRCO must reject the complaint and close this case as of the date of this letter.

As the DOJ's, Civil Rights Division, Special Litigation Section, may have jurisdiction over WDOC, the complaint is being referred to DOJ for appropriate action. Please contact Steven Rosenbaum at DOJ for information regarding the referral of this complaint. Mr. Rosenbaum's contact information is: U.S. Department of Justice, Special Litigation Section, Civil Rights Division, 950 Pennsylvania, Avenue, N.W., Washington D.C. 20530.

If you have any questions about this correspondence, please contact Zahra Khan, Case Manager, at (202) 564-0460, by e-mail at khan.zahra@epa.gov or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 3, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 5119

In Reply Refer to:

EPA File No. 06X-17-R5 (WSPF)

Mr. Gary Boughton
Warden
Wisconsin Secure Program Facility
1101 Morrison Drive
P.O. Box 1000
Boscobel, WI 53805-09002

Re: Rejection of Administrative Correspondence

Dear Mr. Boughton

On November 30, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office, received a complaint from a prisoner incarcerated at the Wisconsin Secure Program Facility (WSPF). The complaint against WSPF alleges that there are unsanitary vent and sewage systems in the Complainant's prison cell causing the Complainant respiratory and other health issues. Complainant also alleges that the drinking water serviced to the prison facility is unsafe to drink. After careful review, ECRCO cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. However, the complaint is being referred to the U.S. Department of Justice (DOJ).

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of complaints to determine acceptance, rejection, or referral (See 40 C.F.R. § 7.120(d) (1)). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e. an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

Mr. Gary Boughton

Page 2

The complaint did not meet the jurisdictional requirements of the EPA's nondiscrimination regulation. Particularly, the WSPF is not a recipient of EPA financial assistance. As a result, ECRCO must reject the complaint and close this case as of the date of this letter.

As the U.S. Department of Justice (DOJ), Civil Rights Division, Special Litigation Section, may have jurisdiction over WSPF, the complaint is being referred to DOJ for appropriate action. Please contact Steven Rosenbaum at DOJ for information regarding the referral of this complaint. Mr. Rosenbaum's contact information is: U.S. Department of Justice, Special Litigation Section, Civil Rights Division, 950 Pennsylvania Avenue, N.W., Washington D.C. 20530.

If you have any questions about this correspondence, please contact Zahra Khan, Case Manager, at (202) 564-0460, by e-mail at khan.zahra@epa.gov or by mail at U.S. EPA External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 5



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 14, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 5980

In Reply Refer to:

EPA File No: 08R-17-R7

Dennis A. Randolph, P.E.
Director of Public Works
City of Grandview
1200 Main Street
Grandview, MO 64030-2498

Re: Withdrawal of Administrative Complaint

Dear Mr. Randolph:

On March 9, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) contacted you to discuss your complaint in EPA Complaint No. 08R-17-R7. During that call, you clarified that you did not intend to name City of Kansas City, Missouri Health Department (KCMO-HD) as a recipient in your complaint on behalf of Grandview City, Missouri. As a result, ECRCO is confirming that you are withdrawing EPA Complaint No. 08R-17-R7, which you filed and we received on December 26, 2016. This withdrawal does not affect your complaint against Missouri Department of Natural Resources (MDNR), EPA Complaint No. 07R-17-R7, which is currently under jurisdictional review.

Accordingly, this is to inform you that as of August 14, 2017 ECRCO has administratively closed your complaint without prejudice and will consider this matter as resolved. If you have any questions, please contact me by telephone at (202) 564-4174 or by email at rhines.dale@epa.gov.

Sincerely,

A handwritten signature in red ink, appearing to read "Dale Rhines", is positioned above the typed name and title.

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

Mr. Dennis A. Randolph

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Mike Brincks
Assistant Regional Administrator
Deputy Civil Rights Official
US EPA Region 7



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 14, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 5997

In Reply Refer to:

EPA File No: 08R-17-R7

Rex Archer
Director
City of Kansas City, Missouri-Health Department
2400 Troost Avenue
Suite 4000
Kansas City, MO 64108

Re: Withdrawal of Administrative Complaint

Dear Mr. Archer:

On March 9, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) participated in a phone conference with the Complainant to discuss EPA Complaint No. 08R-17-R7. During that call, the Complainant clarified that he did not intend to involve the City of Kansas City, Missouri Health Department (KCMO-HD) as a recipient in his complaint. As a result, ECRCO is withdrawing EPA Complaint No. 08R-17-R7, which was filed and received on December 26, 2016.

Pursuant to the Complainant's request, ECRCO is administratively closing the complaint without prejudice and will consider this matter as resolved. If you have any questions, please contact me by telephone at (202) 564-4174 or by email at rhines.dale@epa.gov.

Sincerely,

A handwritten signature in red ink, appearing to read "Dale Rhines", is positioned above the typed name.

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

Mr. Rex Archer

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Mike Brincks
Assistant Regional Administrator
Deputy Civil Rights Official
US EPA Region 7

From: (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy
Sent: Thursday, February 04, 2016 11:58 AM
To: Peterson, Samuel <Peterson.Samuel@epa.gov>
Subject: Polluted Well Water

Dear Mr. Peterson:

This is a complaint letter regarding how myself and many, many other people of North Carolina are being treated by Duke Energy Company. I Have 2 letters from the North Carolina Department of Health telling me that I can NOT DRINK OR COOK WITH MY WELL WATER!!!!!!!!!!!!!! Duke Energy is supplying myself along with many other with bottle water all while telling us that the chemicals in our wells are 'NATURALLY OCCURRING' One of the chemicals in my well water that worries me this most is Arsenic. I have a 22 year old daughter who has been sick now for 6 years and during the time she was in the last part of her Junior and her Senior years in High School she had constant (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

Once I found out that there is Arsenic in my well water and knowing what I know about Arsenic I put my daughter on Bottle Water and the (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy. She is still sick with many other health problems but at least those 2 cleared up. NO AMOUNT OF ARSENIC is safe, people use it as a poison. Arsenic slowly builds up in a human's body and (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy Think of what this arsenic is doing to people who live in a house with well water that has Arsenic in it and drink it over many years. Such as a child being born to a family then growing up drinking, etc with the Arsenic Polluted Well Water. So PLEASE DO AN INVESTIGATION INTO THIS and INTO HOW DUKE ENERGY IS DOING THEIR BEST TO BUY THEIR WAY OUT OF TAKING CARE OF THE MANY PEOPLE THEIR COAL ASH PONDS HAVE MADE SICK OVER THE YEARS WHILE THEY HAVE BEEN MAKING HUGH PROFITS. THANKING YOU VERY MUCH IN ADVANCE!

VERY SINCERELY YOURS,

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

From: [Peterson, Samuel](#)
To: [Covington, Jeryl](#)
Subject: FW: Heavy Metals Released into Air at Belews, Allen, Buck, Cliffside, and Marshall
Date: Wednesday, February 17, 2016 10:58:06 AM

Jeryl,
FYI...
Regards,
Samuel Peterson,
Equal Opportunity Investigator
U.S. Environmental Protection Agency
Office of Civil Rights - External Compliance
1200 Pennsylvania Avenue, N.W.
Mail Code 1201A
Washington, DC 20460
(202) 564-5393
peterston.samuel@epa.gov

From: (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

Sent: Wednesday, February 17, 2016 10:28 AM

To: Peterson, Samuel

Subject: Fwd: Heavy Metals Released into Air at Belews, Allen, Buck, Cliffside, and Marshall

Here is that article I just called you about. I hope it will help. My daughter's mental and physical condition is getting worse all the time. AND IT IS TOTALLY AND COMPLETELY BREAKING MY HEART. I WAS ALREADY (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy WHEN I FOUND MYSELF PREGNANT WITH HER AT 46.

SHE IS NOW 22 and I AM 68 and a half yrs old struggling to keep a roof over our heads, much less food and medicines, medical treatments, etc.

THANKING IN YOU FOR ANYTHING YOU CAN DO IN ADVANCE.

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

-----Original Message-----

From: 'Amy Brown' via ACT Against Coal Ash <ACTAgainstcoalash@googlegroups.com>

To: Sarah <sarah@appvoices.org>

Cc: 'Amy' <ACTAgainstcoalash@googlegroups.com>

Sent: Tue, Feb 16, 2016 1:56 pm

Subject: Re: Heavy Metals Released into Air at Belews, Allen, Buck, Cliffside, and Marshall

Thank you Sarah! I like to refer to this as the Duke belt rather than the Vanadium belt.
Amy Brown

Sent from my iPhone

On Feb 16, 2016, at 3:27 PM, Sarah Kellogg <sarah@appvoices.org> wrote:

Hi Everyone,

I wanted to share this information that we pulled from the EPA's toxic release inventory. The data only goes back to 2004, but already you can see how these numbers are really shocking... definitely something to pull from for hearing comments.

And for everyone who noticed that the "**vanadium belt**" in North Carolina lines up perfectly with Duke's power plants, here's a potential reason why: just from 2004-2015 Duke released hundreds of thousands of pounds of vanadium (in some areas as much as 2 million pounds) at all of their active power plants.

Pollutants Released at Belews Creek Steam Station

- In the past decade these pollutants were released into the environment...
 - over 238 thousand pounds of arsenic
 - more than one ton each month.
 - over 844 thousand pounds of chromium
 - about 4 tons every month.

- over 292 thousand pounds of lead
 - more than one ton every month.
- over 867 thousand pounds of manganese
 - more than 4 tons each month.
- over 1 million pounds of vanadium
 - more than 6 tons every month.
- That is more than a school bus of just these five pollutants being dropped into this community each month.

Pollutants Released at Allen Steam Plant

- From 2006 to 2011 over 139 thousand pounds of arsenic was released into the environment
- In the past decade these pollutants were released into the environment...
 - over 482 thousand pounds of chromium
 - more than 2 tons every month.
 - over 192 thousand pounds of lead
 - almost a ton every month.
 - over 490 thousand pounds of manganese
 - more than 2 tons every month.
 - over 762 thousand pounds of vanadium
 - almost 4 tons every month.
- That is more than an elephant's weight of these pollutants released into the environment every single month.
- More than seven school buses every year.

Pollutants released at Buck Steam Station

- From 2004 to 2010 over 169 thousand pounds of chromium was released into the environment
 - over a ton each month
- In the past decade over 75 thousand pounds of lead was released into the environment.
- From 2004 to 2008 over 193 thousand pounds of manganese was released
 - almost 2 tons every month
- From 2004 to 2011 over 282 thousand pounds of vanadium was released
 - almost 2 tons every month

Pollutants released at Rogers Energy Complex/ Cliffside Steam Station

- In the past decade these pollutants were released into the environment...
 - over 120 thousand pounds of arsenic
 - almost one ton each month
 - over 423 thousand pounds of chromium
 - almost 2 tons each month
 - over 177 thousand pounds of lead
 - almost one ton each month
 - over 501 thousand pounds of manganese
 - over 2 tons each month
 - over 726 thousand pounds of vanadium
 - over 3 tons each month
- That is more than an elephant's weight of just these five pollutants polluting the environment every single month.
- More than seven school buses every year.

Pollutants Released at Marshall Steam Station

- In the past decade these pollutants were released into the environment...
 - over 607 thousand pounds of arsenic
 - about 2 ½ tons each month
 - over 1 ½ million pounds of chromium
 - over 6 tons each month
 - over 683 thousand pounds of lead
 - almost 3 tons each month
 - over 1 ½ million pounds of manganese
 - almost 7 tons each month
 - over 2 million pounds of vanadium
 - more than 10 tons each month
- That is about two school buses of these pollutants being dropped into this communities environment every month.
- About 24 school buses every year.

--

(828) 262-1500

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You received this message because you are subscribed to the Google Groups "ACT Against Coal Ash" group.

To unsubscribe from this group and stop receiving emails from it, send an email to

ACTagainstcoalash+unsubscribe@googlegroups.com.

To post to this group, send email to ACTagainstcoalash@googlegroups.com.

To view this discussion on the web visit

<https://groups.google.com/d/msgid/ACTagainstcoalash/CAMf6O627%2BeMuzgHSFefJH0KA9iDsvQUv7xEBJxGjBx-dJ-kw5Q%40mail.gmail.com>.

For more options, visit <https://groups.google.com/d/optout>.

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To view this discussion on the web visit <https://groups.google.com/d/msgid/ACTagainstcoalash/96004518-CBF9-4F6A-8D40-747AE8195C04%40yahoo.com>.

For more options, visit <https://groups.google.com/d/optout>.



U.S. Department of Transportation
Office of the Secretary of Transportation



U.S. Environmental Protection Agency
External Civil Rights Compliance Office
Office of General Counsel

July 18, 2017

Ms. Yana Garcia
Mr. Paul Cort
Ms. Adenike Adeyeye
Earthjustice
50 California Street
Suite 500
San Francisco, CA 94111

Re: Notification of Acceptance for Investigation of Administrative Complaint (DOT# 2017-0093, EPA File Nos. 13R-17-R9 (City of Oakland) and 14R-17-R9 (Board of Port Commissioners and Port of Oakland))

Dear Ms. Garcia, Mr. Cort, and Ms. Adeyeye:

This is to notify you that the U.S. Department of Transportation (DOT), Departmental Office of Civil Rights (DOCR), and the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), have accepted for investigation the complaint filed by Earthjustice on behalf of West Oakland Environmental Indicators Project (Complainant) against the City of Oakland (City) and the Board of Port Commissioners and Port of Oakland (the Board and Port are collectively referred to as the Port). The complaint was received on April 5, 2017, and alleges violations of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by DOT (49 C.F.R. Part 21) and EPA (40 C.F.R. Part 7).

Pursuant to DOT's and EPA's nondiscrimination regulations, DOCR and ECRCO conduct preliminary reviews of administrative complaints received for acceptance, rejection, or referral to the appropriate agency. *See* 49 C.F.R. § 21.11(c) and 40 C.F.R. § 7.120(d)(1). Complaints must meet the Agencies' jurisdictional requirements to be accepted for investigation. *See* 49 C.F.R. § 21.11(c) and 40 C.F.R. §§ 7.15 and 7.120(b). After careful consideration, DOCR and ECRCO have determined that the complaint meets the jurisdictional requirements of both Agencies, and therefore the complaint will be jointly investigated.

Accordingly, the investigation will focus on:

1. Whether the City's and Port's October 4, 2016, approval and/or involvement in approval of a construction management plan and permission for ground-breaking on the Northeast Gateway development project site of the Oakland Army Base subjects the residents of

color of West Oakland (predominantly black, Latino, and Asian) to discrimination on the basis of race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 and DOT's and EPA's implementing regulations at 49 C.F.R. Part 21 and 40 C.F.R. Part 7, respectively.

2. Whether the City's and Port's methods, including their public participation processes, for approving and authorizing new development and expanded activities at the Port of Oakland and Oakland Army Base subject the residents of color of West Oakland (predominantly black, Latino, and Asian) to discrimination on the basis of race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 and DOT's and EPA's implementing regulations at 49 C.F.R. Part 21 and 40 C.F.R. Part 7, respectively.

The investigation will be conducted in accordance with DOT's *External Civil Rights Complaint Processing Manual* and EPA ECRCO's *Case Resolution Manual*. The decision to investigate the issues above does not constitute a decision on the merits of the complaint. DOCR and ECRCO are neutral fact-finders and will begin a joint process to gather the relevant information, discuss the matter further with you (or your designee) and the recipients, as appropriate, and determine next steps utilizing the Agencies' internal procedures. In the intervening time, DOT and EPA will provide the recipients with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of the letter. *See, e.g.*, 40 C.F.R. § 7.120(d)(1)(ii-iii).

This does not foreclose resolution of matters raised in the complaint through informal resolution, including alternative dispute resolution (ADR). Both DOT's and EPA's nondiscrimination regulations provide that DOCR and ECRCO will attempt to resolve complaints informally whenever possible. 49 C.F.R. § 21.11(d); 40 C.F.R. § 7.120(d)(2). Accordingly, DOCR and ECRCO are willing to discuss, at any point during the process, offers to informally resolve the complaint. We may also be contacting both you (or your designee) and the recipients in the near future to discuss potential interest in informal resolution, including ADR. For a more detailed explanation of DOCR's and ECRCO's complaint and resolution processes, we invite you to review DOCR's *External Civil Rights Complaint Processing Manual*, available at https://www.transportation.gov/sites/dot.gov/files/docs/externalcomplaintmanual-final_1.pdf, and ECRCO's *Case Resolution Manual*, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e) and 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with DOCR and ECRCO.

Please do not hesitate to contact Ryan Fitzpatrick, Lead Civil Rights Analyst in DOT's DOCR, or Ericka Farrell, Case Manager in EPA's ECRCO, with any questions about the investigation.

Ms. Garcia, Mr. Cort, and Ms. Adeyeye

Mr. Fitzpatrick can be reached at (202) 366-1979, or ryan.fitzpatrick@dot.gov. Ms. Farrell can be reached at (202) 564-0717, or farrell.ericka@epa.gov.

Sincerely,



Charles E. James, Sr.
Director
Office of the Secretary of Transportation
Departmental Office of Civil Rights
U.S. Department of Transportation



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency

cc:

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 9

Kenneth Redden
Acting Assistant General Counsel
Civil Rights and Finance Law Office

Lauren Brand
Associate Administrator
Office of Intermodal System Development
Maritime Administration

Daryl Hart
Director
Office of Civil Rights
Maritime Administration



U.S. Department of Transportation
Office of the Secretary of Transportation



U.S. Environmental Protection Agency
External Civil Rights Compliance Office
Office of General Counsel

July 18, 2017

The Honorable Libby Schaaf
Mayor, City of Oakland
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Michael Colbruno
President
Board of Port Commissioners
Port of Oakland
530 Water Street
Oakland, CA 94607

Re: Notification of Acceptance for Investigation of Administrative Complaint (DOT# 2017-0093, EPA File Nos. 13R-17-R9 (City of Oakland) and 14R-17-R9 (Board of Port Commissioners and Port of Oakland))

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Mayor Schaaf and Mr. Colbruno

protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e) and 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with DOCR and ECRCO.

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Sincerely,



Charles E. James, Sr.
Director
Office of the Secretary of Transportation
Departmental Office of Civil Rights
U.S. Department of Transportation



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency

cc:

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EPA, Region 9

Kenneth Redden
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Daryl Hart
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U.S. Department of Transportation
Office of the Secretary of Transportation



U.S. Environmental Protection Agency
External Civil Rights Compliance Office
Office of General Counsel

July 18, 2017

Ms. Yana Garcia
Mr. Paul Cort
Ms. Adenike Adeyeye
Earthjustice
50 California Street
Suite 500
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Charles E. James, Sr.
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Office of the Secretary of Transportation
Departmental Office of Civil Rights
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Lilian S. Dorka
Director
External Civil Rights Compliance Office
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Daryl Hart
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U.S. Department of Transportation
Office of the Secretary of Transportation



U.S. Environmental Protection Agency
External Civil Rights Compliance Office
Office of General Counsel

July 18, 2017

The Honorable Libby Schaaf
Mayor, City of Oakland
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Michael Colbruno
President
Board of Port Commissioners
Port of Oakland
530 Water Street
Oakland, CA 94607

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Accordingly, the investigation will focus on:

1. Whether the City's and Port's October 4, 2016, approval and/or involvement in approval of a construction management plan and permission for ground-breaking on the Northeast Gateway development project site of the Oakland Army Base subjects the residents of color of West Oakland (predominantly black, Latino, and Asian) to discrimination on the basis of race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 and DOT's and EPA's implementing regulations at 49 C.F.R. Part 21 and 40 C.F.R. Part 7, respectively.
2. Whether the City's and Port's methods, including their public participation processes, for approving and authorizing new development and expanded activities at the Port of Oakland and Oakland Army Base subject the residents of color of West Oakland (predominantly black, Latino, and Asian) to discrimination on the basis of race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 and DOT's and EPA's implementing regulations at 49 C.F.R. Part 21 and 40 C.F.R. Part 7, respectively.

The investigation will be conducted in accordance with DOT's *External Civil Rights Complaint Processing Manual* and EPA ECRCO's *Case Resolution Manual*. The decision to investigate the issues above does not constitute a decision on the merits of the complaint. DOCR and ECRCO are neutral fact-finders and will begin a joint process to gather the relevant information, discuss the matter further with you (or your designee) and the Complainant, as appropriate, and determine next steps utilizing the Agencies' internal procedures. In the intervening time, DOT and EPA will provide you with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of the letter. *See, e.g.,* 40 C.F.R. § 7.120(d)(1)(ii-iii).

This does not foreclose resolution of matters raised in the complaint through informal resolution, including alternative dispute resolution (ADR). Both DOT's and EPA's nondiscrimination regulations provide that DOCR and ECRCO will attempt to resolve complaints informally whenever possible. 49 C.F.R. § 21.11(d); 40 C.F.R. § 7.120(d)(2). Accordingly, DOCR and ECRCO are willing to discuss, at any point during the process, offers to informally resolve the complaint. We may also be contacting both you (or your designee) and the Complainant in the near future to discuss potential interest in informal resolution, including ADR. For a more detailed explanation of DOCR's and ECRCO's complaint and resolution processes, we invite you to review DOCR's *External Civil Rights Complaint Processing Manual*, available at https://www.transportation.gov/sites/dot.gov/files/docs/externalcomplaintmanual-final_1.pdf, and ECRCO's *Case Resolution Manual*, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights

Mayor Schaaf and Mr. Colbruno

protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e) and 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with DOCR and ECRCO.

Please do not hesitate to contact Ryan Fitzpatrick, Lead Civil Rights Analyst in DOT's DOCR, or Ericka Farrell, Case Manager in EPA's ECRCO, with any questions about the investigation. Mr. Fitzpatrick can be reached at (202) 366-1979, or ryan.fitzpatrick@dot.gov. Ms. Farrell can be reached at (202) 564-0717, or farrell.ericka@epa.gov.

Sincerely,



Charles E. James, Sr.
Director
Office of the Secretary of Transportation
Departmental Office of Civil Rights
U.S. Department of Transportation



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency

cc:

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 9

Kenneth Redden
Acting Assistant General Counsel
Civil Rights and Finance Law Office

Lauren Brand
Associate Administrator
Office of Intermodal System Development
Maritime Administration

Daryl Hart
Director
Office of Civil Rights
Maritime Administration



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 1, 2017

Return Receipt Requested

Certified Mail#: (b) (6)

In Reply Refer To:

EPA File No. 15R-16-R4

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

Decatur, GA 30035

Re: Rejection of Administrative Complaint, 15R-16-R4

Dear (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

On March 4, 2016, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received your complaint, originally submitted to the Department of Justice (DOJ) on August 31, 2015. In your complaint you alleged that DeKalb County, in Georgia, discriminated against you on the basis of race and sex by denying contracting awards to your engineering firm. ECRCO has determined that it cannot accept your administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. As a result, this case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

ECRCO contacted you on June 9, 2017 to obtain additional information related to your concerns. As a result of that interview, in conjunction with the documents and complaint form you

previously submitted, ECRCO has determined that you do not allege a discriminatory act under ECRCO's jurisdiction. While you state on your complaint form that you have "solid evidence of discrimination," you also state that the contracts you seek from the county are being awarded to other contractors who are also "black/women LSBE contractors." In addition, you state in your complaint that "Black/women contractors that are part of the friends/family/political favorites/fraud/kickbacks are given work and repeated contracts." Therefore, it appears that you are alleging that the county awards contracts based on favoritism, personal relationships and/or political support. ECRCO has determined that you do not describe an allegation that, if true, would violate any of the laws enforced by ECRCO. That is, as described, your allegation does not constitute discrimination based on race, sex, disability or age as prohibited by the EPA's nondiscrimination regulation found at 40 C.F.R. Part 7.

As such, ECRCO lacks the jurisdiction to accept your complaint for investigation. Accordingly, this case is closed as of the date of this letter. If you have questions about this letter, please feel free to contact Debra McGhee, Team Lead, at (202) 564-4646.

Sincerely,



Lilian S. Dorka
Director,
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Kenneth Lapierre
Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 1, 2017

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 6178

In Reply Refer To:

EPA File No. 15R-16-R4

Mr. Michael Thurmond
Chief Executive Officer
DeKalb County Government
1300 Commerce Drive, 6th floor
Decatur, GA 30030

Re: Rejection of Administrative Complaint

Dear Mr. Thurmond:

On March 4, 2016, The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received a complaint, originally submitted to the Department of Justice (DOJ) on August 31, 2015. The complaint alleged that DeKalb County, in Georgia, discriminated against the Complainant on the basis of race and sex by denying contracting awards to the Complainant's engineering firm. ECRCO has determined that it cannot accept this administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. As a result, this case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

ECRCO contacted the Complainant to obtain additional information related to the allegation. As a result of that interview, in conjunction with the documents and the complaint form that had been submitted, ECRCO has determined that the Complainant does not allege a discriminatory act under ECRCO's jurisdiction. The Complainant alleged discrimination based upon race and sex, but also stated that the County awarded contracts to businesses led by individuals of the Complainant's same race and sex. In addition, the Complainant described a system whereby county contracting awards were allegedly given to friends and political supporters of county officials. As a consequence, ECRCO has determined that the Complainant does not describe an allegation that, if true, would violate any of the laws enforced by ECRCO. That is, as described, the allegation does not constitute discrimination based on race, sex, disability, or age as prohibited by EPA's nondiscrimination regulation at 40 C.F.R. Part 7.

As such, ECRCO lacks jurisdiction to accept this complaint for investigation. Accordingly, this case is closed as of the date of this letter. If you have questions about this letter, please feel free to contact Debra McGhee, Team Lead, at mcghee.debra@epa.gov, or at (202) 564-4646.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc Kenneth Redden
 Acting Associate General Counsel
 Civil Rights & Finance Law Office

Kenneth Lapierre
Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 18, 2017

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 5737

In Reply Refer to:

EPA File No. 16R-17-R4

Marianne Engelman Lado
Visiting Clinical Professor of Law
Environmental Justice Clinic
Yale Law School
127 Wall Street
New Haven, Connecticut 06511

Certified Mail#: 7015 3010 0001 1267 5744
Leah Aden
Senior Counsel
NAACP Legal Defense & Educational Fund, Inc.
1444 Eye Street, N.W.
Washington, DC 20005

Certified Mail#: 7015 3010 0001 1267 5761
Suzanne Novak
Jonathan Smith
Earthjustice
48 Wall Street
19th Floor
New York, NY 10005

Re: Acceptance of Administrative Complaint 16R-17-R4

Dear Ms. Lado, Ms. Aden, Ms. Novak, and Mr. Smith:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is accepting for investigation your administrative complaint filed against the Alabama Department of Environmental Management (ADEM) on behalf of residents of the Ashurst Bar/Smith Community (ABSCO). In general, the complaint alleges that ADEM discriminated on the basis of race against ABSCO residents in Tallapoosa County, Alabama with respect to ADEM's February 10, 2017 issuance of an operating permit renewal for the Stone's Throw Landfill (also known as Tallassee Waste Disposal Center, Inc.), in Tallassee, Alabama, in violation of Title VI of the Civil Rights Act of 1964, as amended, 42

Ms. Marianne Engleman-Lado
Ms. Leah Aden
Ms. Suzanne Novak
Mr. Jonathan Smith

Page 2

United States Code 2000d *et seq.*, the EPA's nondiscrimination regulation found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts preliminary reviews of administrative complaints received for acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must allege a discriminatory act that if true, may violate EPA's nondiscrimination regulation (*e.g.* an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act, unless this time limit is waived for good cause shown. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has determined that your complaint meets the jurisdictional requirements stated above. First, the complaint is in writing. Second, the complaint alleges that discrimination occurred, in violation of EPA's nondiscrimination regulation. Third, the complaint describes an alleged discriminatory act that occurred within 180 days of filing. And finally, the complaint was filed against ADEM, which is a recipient of EPA financial assistance.

Accordingly, ECRCO will investigate the following:

1. Whether ADEM's issuance of the February 10, 2017 operating permit renewal for the Stones Throw Landfill discriminated against the predominantly African-American residents of the Ashurst Bar/Smith community on the basis of race in violation of Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.
2. Whether ADEM's method of administering its Solid Waste Disposal permitting program subjects the predominantly African-American residents of the Ashurst Bar/Smith community to discrimination on the basis of race in violation of Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.

The initiation of an investigation of the issues above is not a decision on the merits. ECRCO is a neutral fact finder and will begin the process of gathering the relevant information, discuss the matter further with you and ADEM, as appropriate, and determine next steps utilizing our internal procedures. In the intervening time, ECRCO will provide ADEM with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving their copy of the letter. *See* 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that ECRCO will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, ECRCO is willing to

Ms. Marianne Engleman-Lado
Ms. Leah Aden
Ms. Suzanne Novak
Mr. Jonathan Smith

Page 3

discuss, at any point during the process, offers to informally resolve the subject complaint. ECRCO may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at <https://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi>. ECRCO may also contact the recipient to discuss its interest in entering into informal resolution discussions. We invite you to review ECRCO's Case Resolution Manual for a more detailed explanation of ECRCO's complaint resolution process, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

We would like to remind you that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO. Our office would investigate such a complaint if the situation warranted.

If you have questions about this letter, please feel free to contact me at 202-564-9649 (Dorka.Lilian@epa.gov) or Jonathan Stein, Case Manager at 202-564-2088 (Stein.Jonathan@epa.gov).

Sincerely,



Lilian S. Dorka
Director, External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Vickie Tellis
Acting Assistant Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 18, 2017

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 5768

In Reply Refer to:

EPA File No. 16R-17-R4

Lance LeFleur, Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, AL 36130-1463

Re: Acceptance of Administrative Complaint 16R-17-R4

Dear Director LeFleur:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is accepting for investigation an administrative complaint filed by Yale Law School Environmental Justice Clinic, the NAACP Legal Defense & Educational Fund, and Earthjustice on behalf of the Ashurst Bar/Smith Community (ABSCO) against the Alabama Department of Environmental Management (ADEM). In general, the complaint alleges that ADEM discriminated on the basis of race against ABSCO residents in Tallapoosa County, Alabama with respect to ADEM's February 10, 2017 issuance of an operating permit renewal for the Stone's Throw Landfill (also known as Tallassee Waste Disposal Center, Inc.), in Tallassee, Alabama, in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*, the EPA's nondiscrimination regulation found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts preliminary reviews of administrative complaints received for acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must allege a discriminatory act that if true, may violate EPA's nondiscrimination regulation (*e.g.* an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act, unless this time limit is waived for good cause shown. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has determined that the subject complaint meets the jurisdictional requirements stated above. First, the complaint is in writing. Second, the

complaint alleges that discrimination occurred, in violation of EPA's nondiscrimination regulation. Third, the complaint describes an alleged discriminatory act that occurred within 180 days of filing. And finally, the complaint was filed against ADEM, which is a recipient of EPA financial assistance.

Accordingly, ECRCO will investigate the following:

1. Whether ADEM's issuance of the February 10, 2017 operating permit renewal for the Stones Throw Landfill discriminated against the predominantly African-American residents of the Ashurst Bar/Smith community on the basis of race in violation of Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.
2. Whether ADEM's method of administering its Solid Waste Disposal permitting program subjects the predominantly African-American residents of the Ashurst Bar/Smith community to discrimination on the basis of race in violation of Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.

The initiation of an investigation of the issues above is not a decision on the merits. ECRCO is a neutral fact finder and will begin the process of gathering the relevant information, discuss the matter further with you and the complainants, as appropriate, and determine next steps utilizing our internal procedures. In the intervening time, ADEM may make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving your copy of the letter. *See* 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that ECRCO will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, ECRCO is willing to discuss, at any point during the process, offers to informally resolve the subject complaint. ECRCO may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at <https://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi>. ECRCO may also contact you to discuss your interest in entering into informal resolution discussions. We invite you to review ECRCO's Case Resolution Manual for a more detailed explanation of ECRCO's complaint resolution process, available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

We would like to remind you that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO. Our office would investigate such a complaint if the situation warranted.

If you have questions about this letter, please feel free to contact me at 202-564-9649 (Dorka.Lilian@epa.gov) or Jonathan Stein, Case Manager at 202-564-2088 (Stein.Jonathan@epa.gov).

Sincerely,



Lilian S. Dorka
Director, External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Vickie Tellis
Acting Assistant Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 29, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 16U-16-R9

(b) (6), (b) (7)(C)

Sacramento, CA 95819 (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Re: Rejection of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

On March 6, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) received your complaint alleging corruption within the Sacramento Metropolitan Air Quality Management District. After careful review, ECRCO has concluded that it cannot accept your administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations found at 40 CFR Part 7. Therefore, ECRCO is closing this case as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

Your original correspondence did not provide ECRCO with sufficient information to determine

ECRCO's authority to investigate your complaint under EPA's nondiscrimination regulation. That is, you did not indicate how, when, and on what basis(es), (race, color, national origin, sex, age, or disability), the Sacramento Metropolitan Air Quality Management District discriminated against you.

On June 22, 2016, ECRCO sought clarification about your complaint in a telephone call between you and two members of my staff, Katsumi Keeler and Jeremy Lofthouse. During the interview, ECRCO requested information regarding the date of the alleged harm. You indicated that on October 22, 2015, and February 25, 2016, you were denied or limited in the amount of time to speak before a meeting of the Board of the Sacramento Metropolitan Air Quality Management District. However, you also stated that the actual discrimination you encountered took place when the District applied a penalty at the close of a lawsuit with that agency. That penalty was ordered in February of 2008 per documentation provided by you. As the complaint was filed on March 6, 2016, that is well beyond the 180 days of the alleged discriminatory act. Accordingly, the information provided by you does not support that a timely alleged discriminatory act occurred.

In addition, my staff asked you to identify a basis for the alleged discrimination. You responded that showing such discrimination would be "a pretty tough door to get through." You did not provide any additional information about why you believe you were discriminated against, and on what basis. Therefore, ECRCO lacks jurisdiction over this complaint and cannot accept it for investigation. This matter is closed as of the date of this letter.

If you have any questions about this letter, please contact Case Manager Katsumi Keeler at (202) 564-2347 or via email at Keeler.Katsumi@epa.gov.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 9

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 29, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 6192

In Reply Refer to:

EPA File No. 16U-16-R9

Mr. Alberto Ayala
Air Pollution Control Officer/ Executive Director
Sacramento Metropolitan Air Quality Management District
777 12th Street, 3rd floor
Sacramento, CA 95814

Re: Rejection of Administrative Correspondence

Dear Executive Director Ayala:

On March 8, 2016, the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) notified you of a complaint alleging corruption within the Sacramento Metropolitan Air Quality Management District. After careful review, ECRCO has concluded that it will not accept the administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations found at 40 CFR Part 7. Therefore, ECRCO is closing this case as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

The original correspondence did not provide ECRCO with sufficient information to determine ECRCO's authority to investigate the complaint under EPA's nondiscrimination regulation. That is, there was no indication about how, when, and on what basis(es), (race, color, national origin, sex, age, or disability), the Sacramento Metropolitan Air Quality Management District discriminated against the Complainant.

ECRCO sought clarification about the complaint in a telephone call with the Complainant. During the interview, ECRCO requested information regarding the date of the alleged harm. The Complainant indicated that on October 22, 2015, and February 25, 2016, he was denied or limited in the amount of time to speak before a meeting of the Board of the Sacramento Metropolitan Air Quality Management District. However, he also stated that the actual discrimination took place when the District applied a penalty at the close of a lawsuit with that agency. That penalty was ordered in February of 2008 per documentation provided by the Complainant. As the complaint was filed on March 6, 2016, that is well beyond the 180 days of the alleged discriminatory act. Accordingly, the information provided by the Complainant does not support that a timely alleged discriminatory act occurred.

In addition, the Complainant did not provide any additional information about why he believed he was discriminated against, and on what basis. Therefore, ECRCO lacks jurisdiction over this complaint and cannot accept it for investigation. This matter is closed as of the date of this letter.

If you have any questions about this letter, please contact Case Manager Katsumi Keeler at (202) 564-2347 or via email at Keeler.Katsumi@epa.gov.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 9

Dorka, Lilian

From: Dorka, Lilian
Sent: Friday, October 6, 2017 12:51 PM
To: 'Grether, Heidi (DEQ)'
Cc: 'Leone, John (AG)'; Redden, Kenneth; Newton, Cheryl; Temple, Kurt; Rhines, Dale; Keeler, Katsumi; O'Lone, Mary; Johnson, Johahna; Walts, Alan
Subject: Letter Regarding Informal Resolution of Complaint No. 17RD-16-R5 and Draft Informal Resolution Agreement
Attachments: 2017.10.06 Grether C.H. (Director) re Informal Resolution Letter and Draft Agreement 17RD-16-R5.pdf
Importance: High

Dear Director Grether:

Attached, please find a letter and Draft Informal Resolution Agreement related to the informal resolution of the administrative complaint filed with EPA's External Civil Rights Compliance Office against the Michigan Department of Environmental Quality, No. 17RD-16-R5. This letter (and enclosure) has also been mailed to you via certified mail.

Thank you for your attention to this matter and I look forward to speaking with you soon. Please let me know if you have any questions.

Sincerely,

Lilian Dorka

Lilian Sotolongo Dorka, Esq.
Director, External Civil Rights Compliance Office
EPA, Office of General Counsel
202-564-9649
WJC-N Room 2450



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

October 6, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 2583

In Reply Refer To:

EPA File Nos. 17RD-16-R5

C. Heidi Grether, Director
Michigan Department of Environmental Quality
Constitution Hall
525 West Allegan Street
P.O. BOX 30473
Lansing, MI 48909-7973

Re: EPA File No. 17RD-16-R5

Dear Director Grether:

I am enclosing for your review and consideration an updated draft Informal Resolution Agreement (Agreement) pertaining to the only pending External Civil Rights Compliance Office (ECRCO) matter involving the Michigan Department of Environmental Quality (MDEQ) – the discrimination complaint filed with ECRCO related to the Flint water issue. As we have discussed previously, ECRCO believes that this Agreement is the best way to resolve the complaint in a forward-looking and comprehensive manner which builds on the cooperative efforts already underway between EPA and the State.

This updated Agreement, through the commitments and ECRCO comments contained within it, reflects EPA's review of MDEQ's March 6, 2017 response to EPA's Resolution/Closure Letter issued on January 19, 2017, in Case No. 01R-94-R5 (Genesee). To be clear, the Genesee case was closed as of January 19, 2017, and remains closed. However, in closing Genesee, EPA advised MDEQ that it was focusing on three areas on which EPA expects MDEQ to take action in resolving the Flint water complaint (EPA File No. 17RD-16-R5): 1) improving MDEQ's public participation program to reduce the risk of future disparate treatment; 2) improving MDEQ's development and implementation of a foundational non-discrimination program that establishes appropriate procedural safeguards while addressing civil rights complaints as well as policies and procedures for ensuring meaningful access for persons with disabilities and limited-English proficiency to MDEQ programs and activities; and 3) ensuring that MDEQ has an appropriate process in place for addressing environmental complaints. Those areas are covered in this draft Agreement.

As it is ECRCO's policy and practice to promote appropriate involvement of complainants and recipients in the complaint resolution process, ECRCO will be having a conversation with the Complainant to provide an update on the progress of this matter, share information about the updated draft Agreement, and as has been our practice, receive any information or comments that the Complainant might have. However, before having such a conversation, we would first provide MDEQ an opportunity to review this Agreement and discuss it with us.

To that end, ECRCO would like to schedule a conversation with you to go over the draft Agreement once you have had a chance to review and share with your team. Please note that the comments we have provided in the draft Agreement are designed to facilitate our conversation with you, understand the information that MDEQ has provided to us, and focus on the few issues remaining for resolution. Mary O'Lone, our Attorney Advisor, will also be sharing the draft Agreement with John Leone. Soon we will be following up with you to assess your availability and schedule a time to discuss.

If you have any questions in the meantime, please do not hesitate to contact me directly at (202) 564-9649 or by email at dorka.lilian@epa.gov. Also, if Mr. Leone has any questions, he should contact Mary O'Lone, Attorney Advisor at 202-564-4992 or olone.mary@epa.gov. Thank you for your attention to this matter and I look forward to speaking with you again soon.

Sincerely,



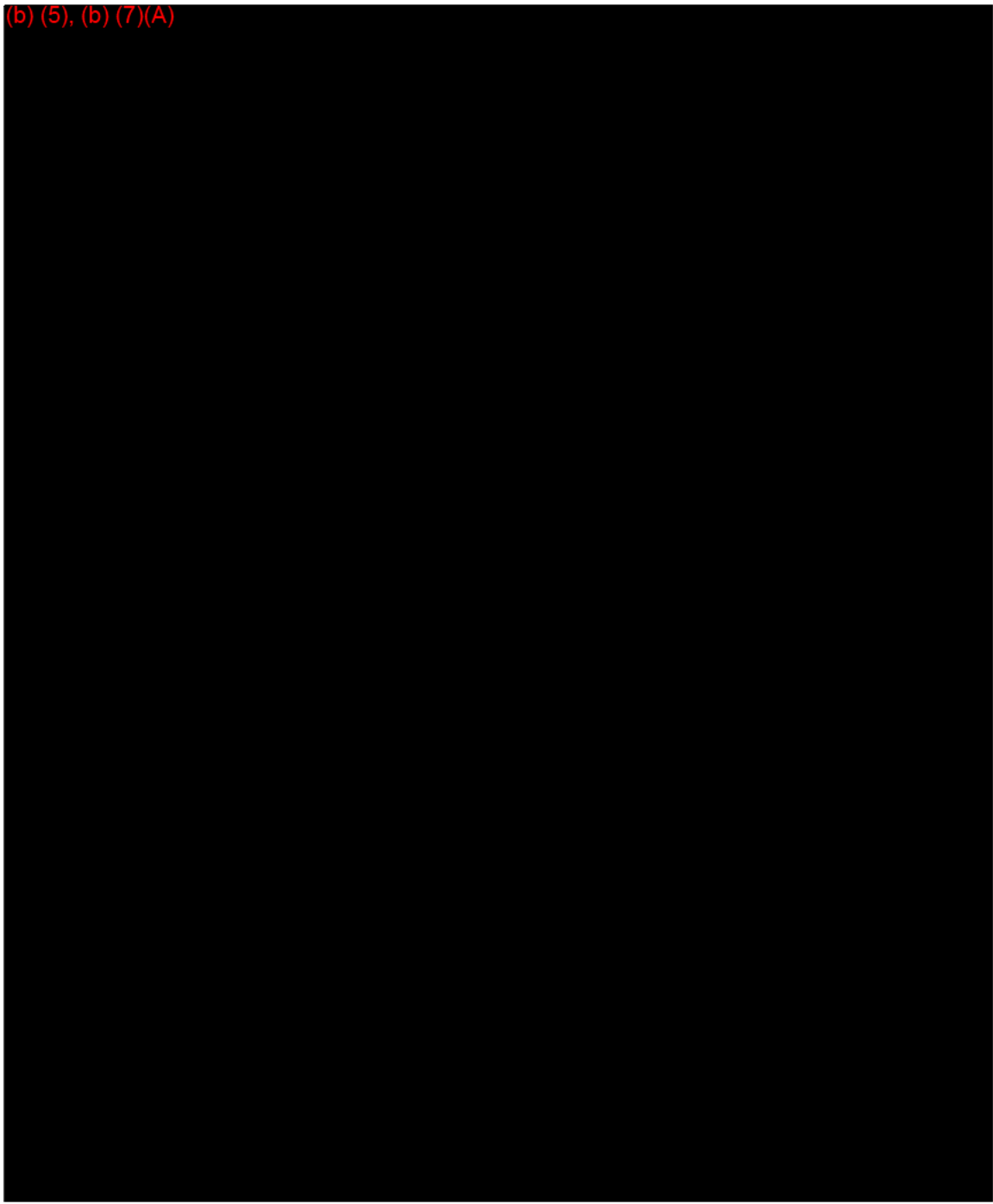
Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure

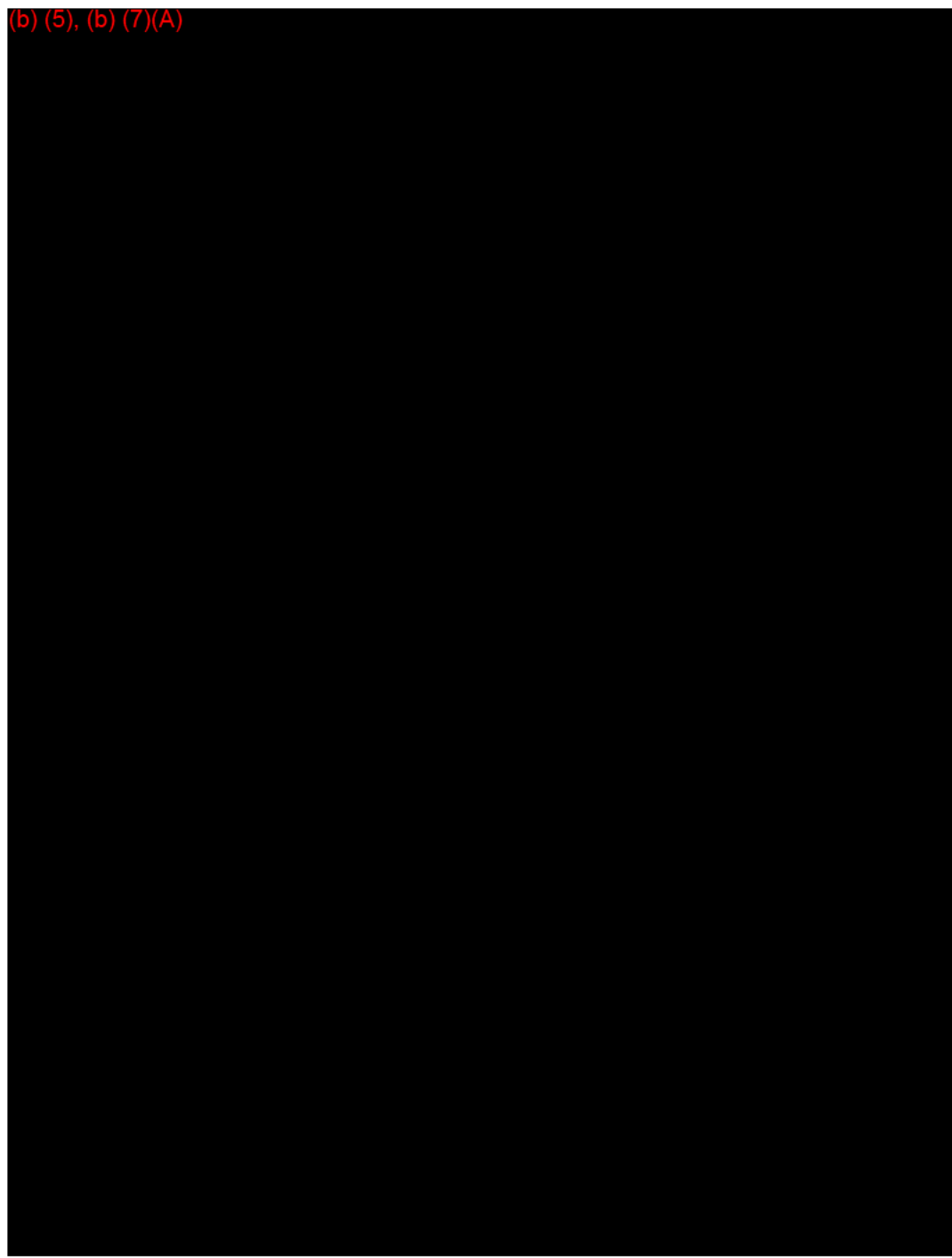
Cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA Region 5

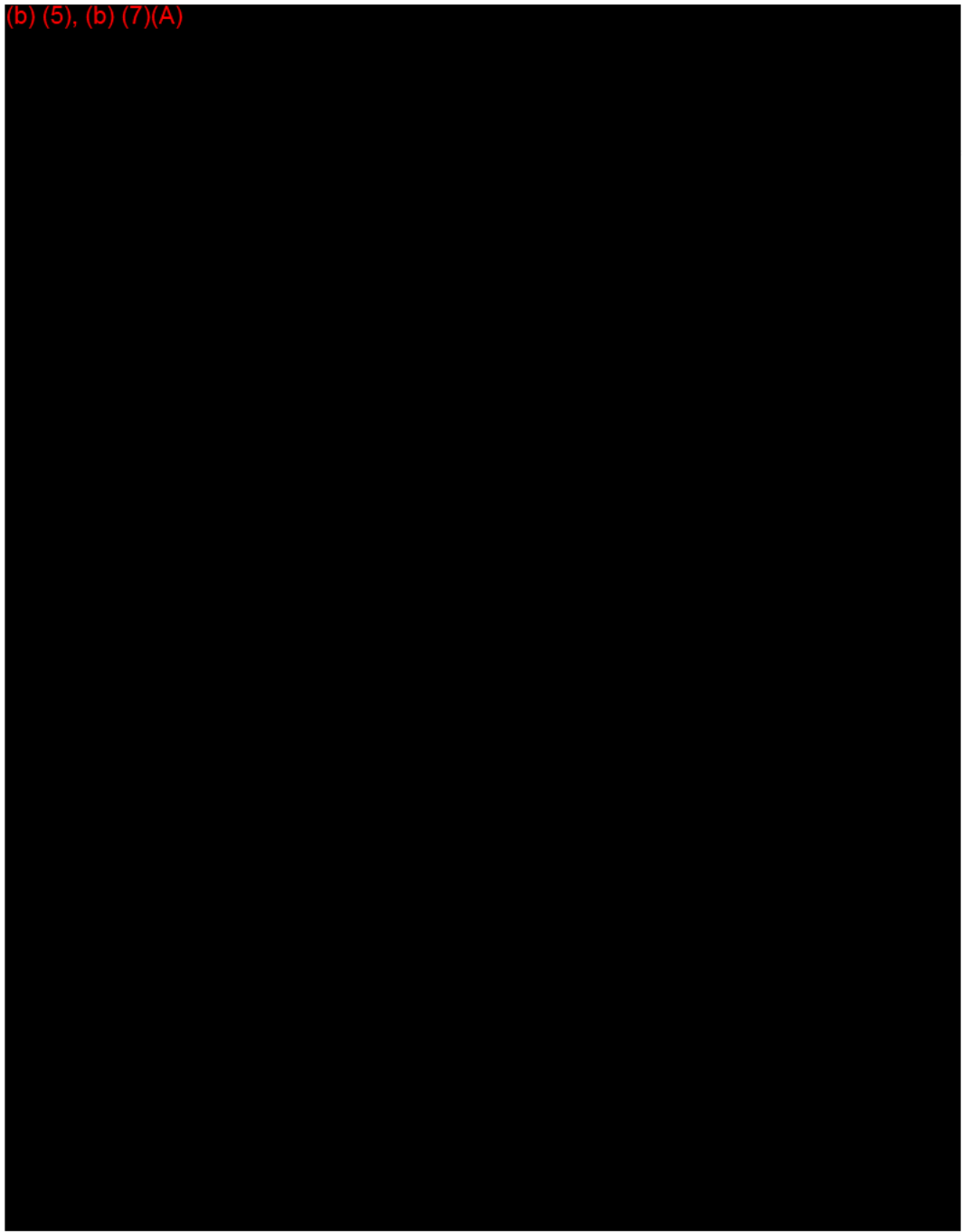
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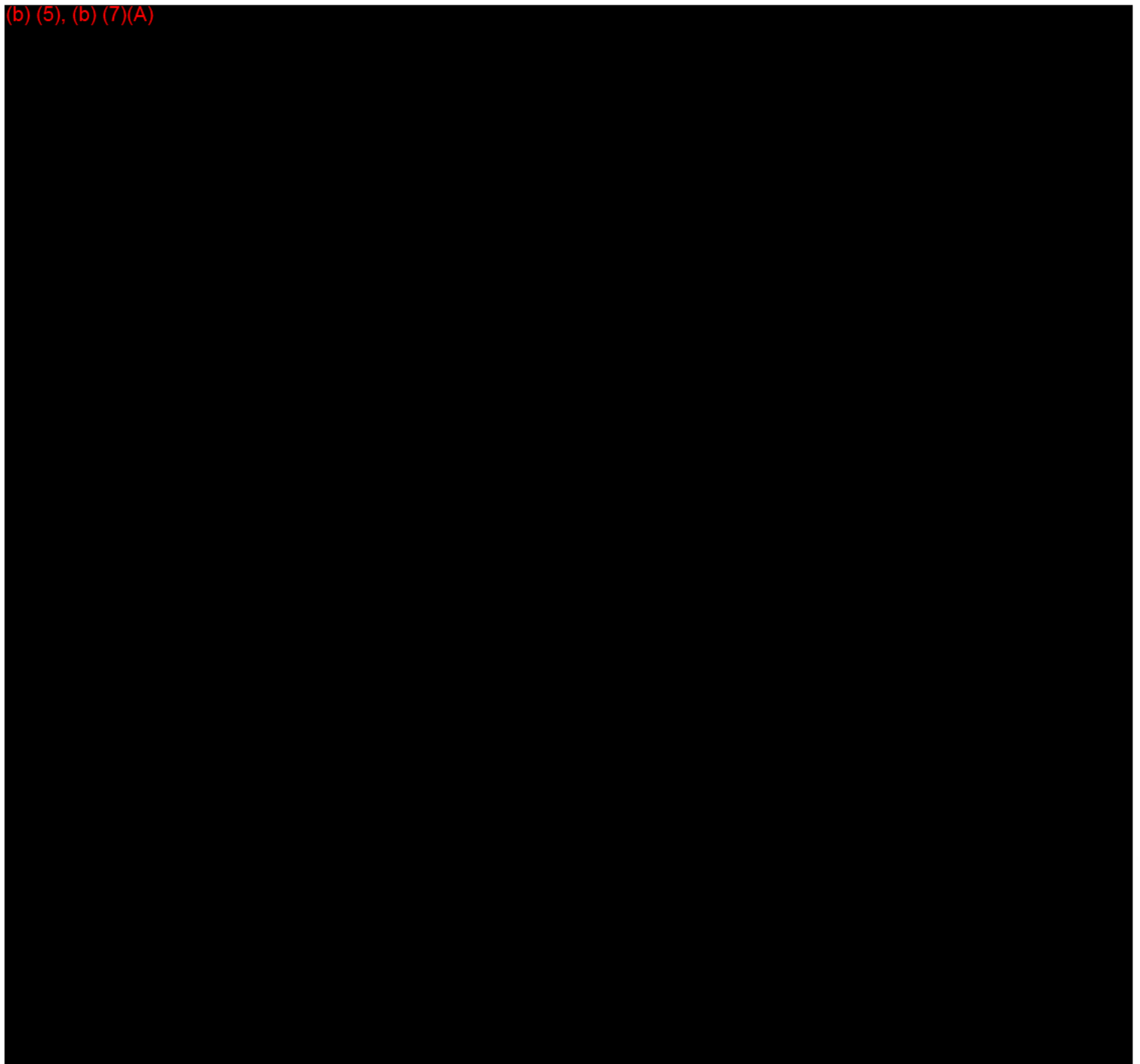
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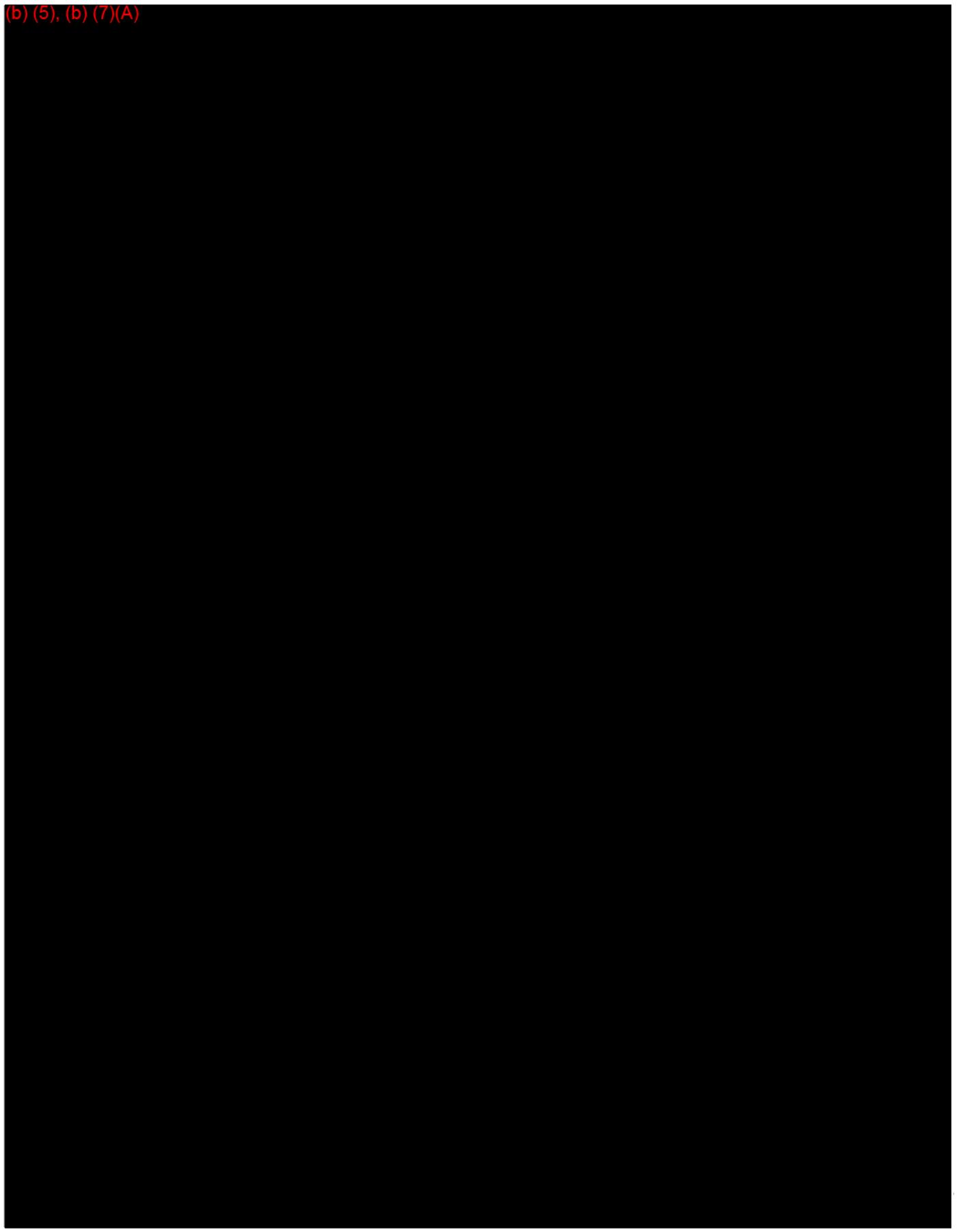
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(b) (5), (b) (7)(A)



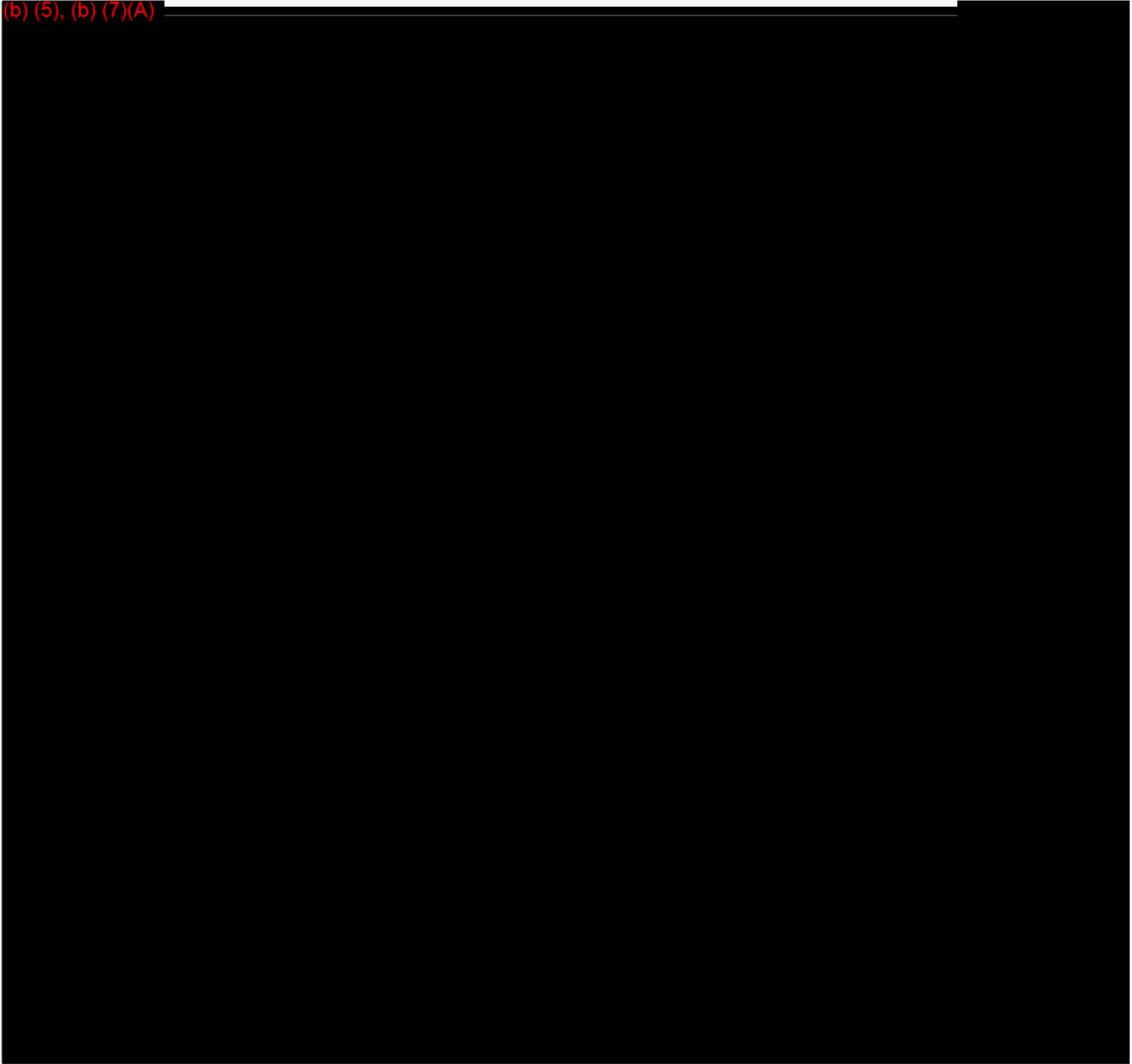
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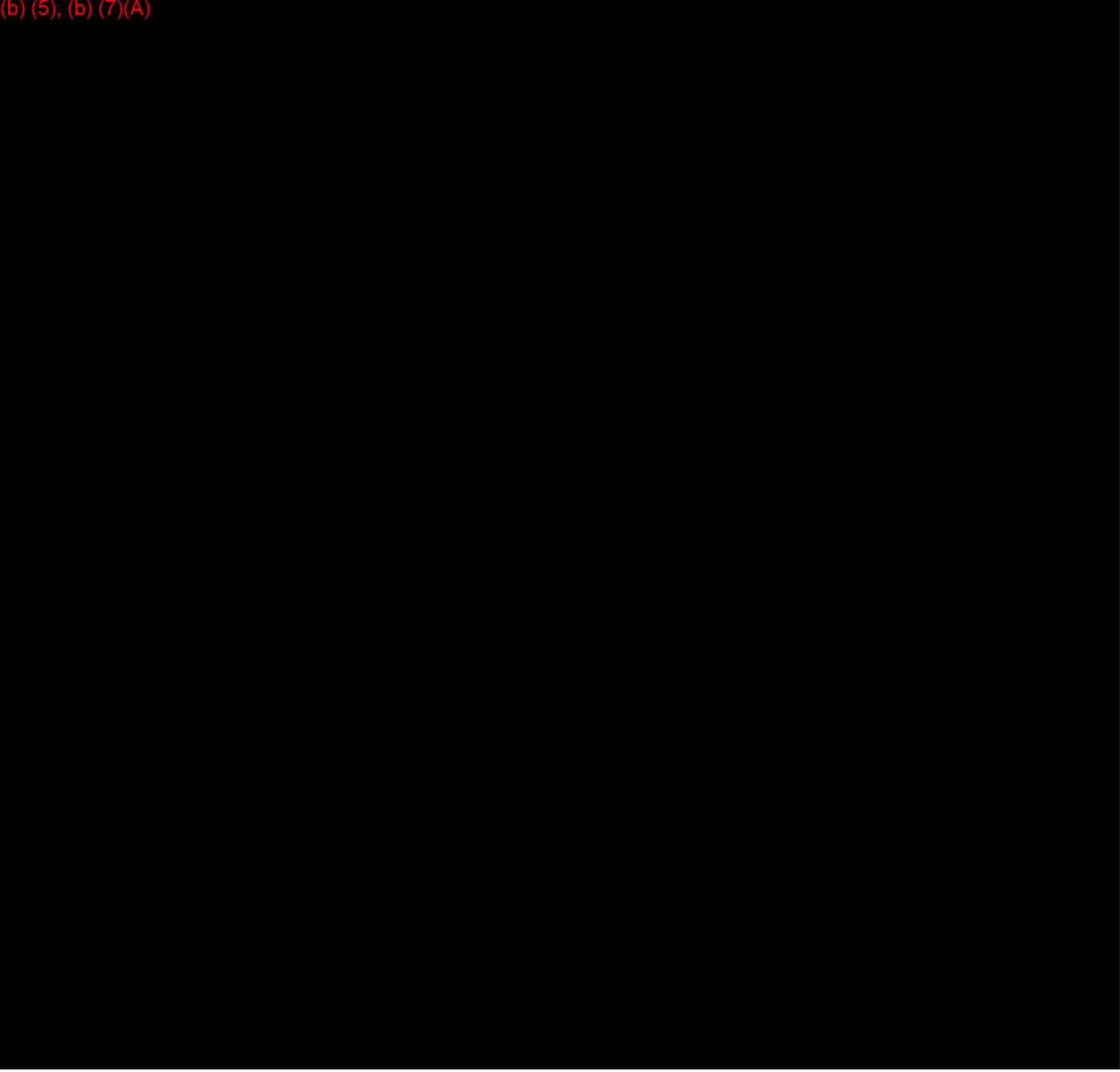
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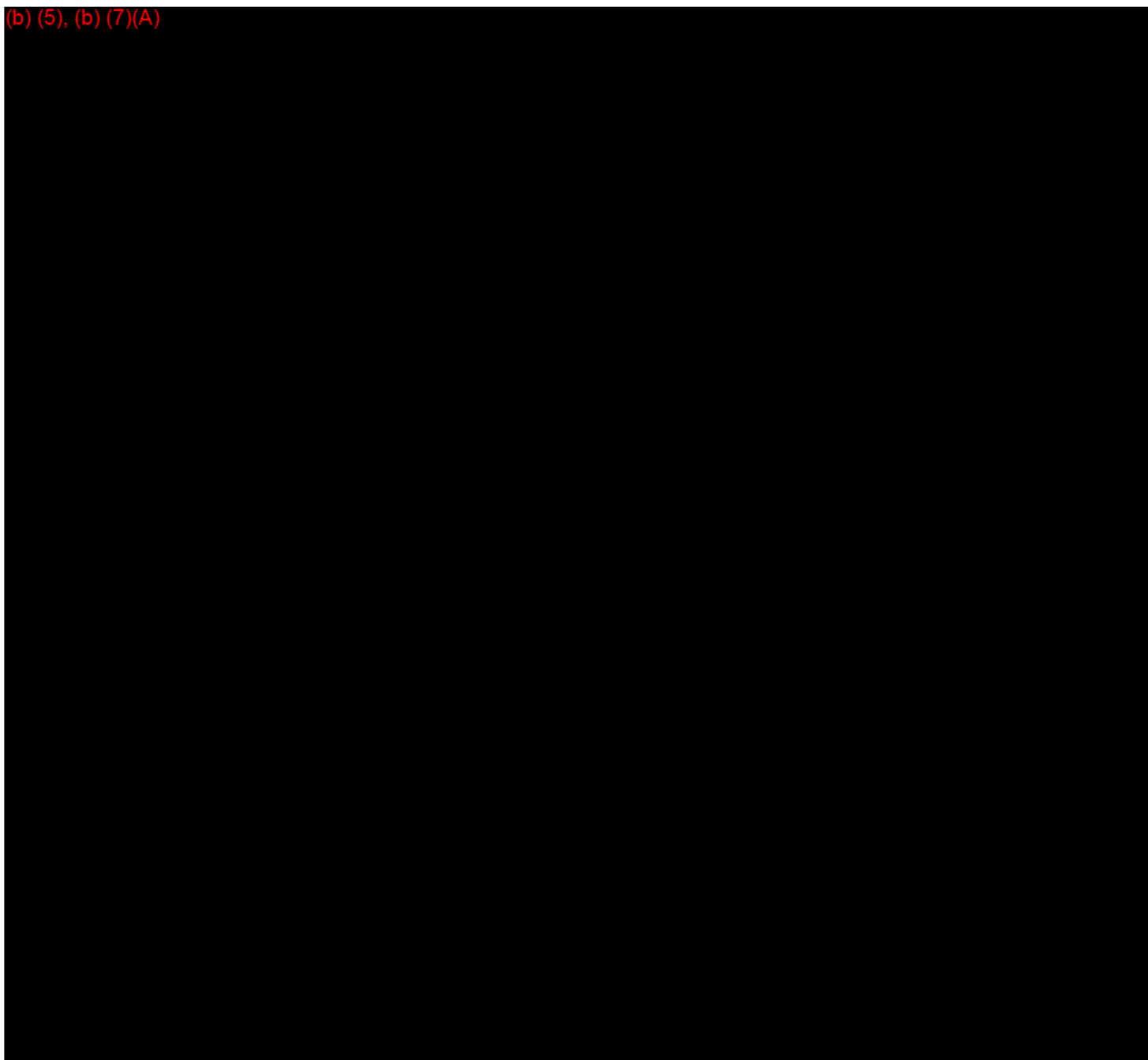
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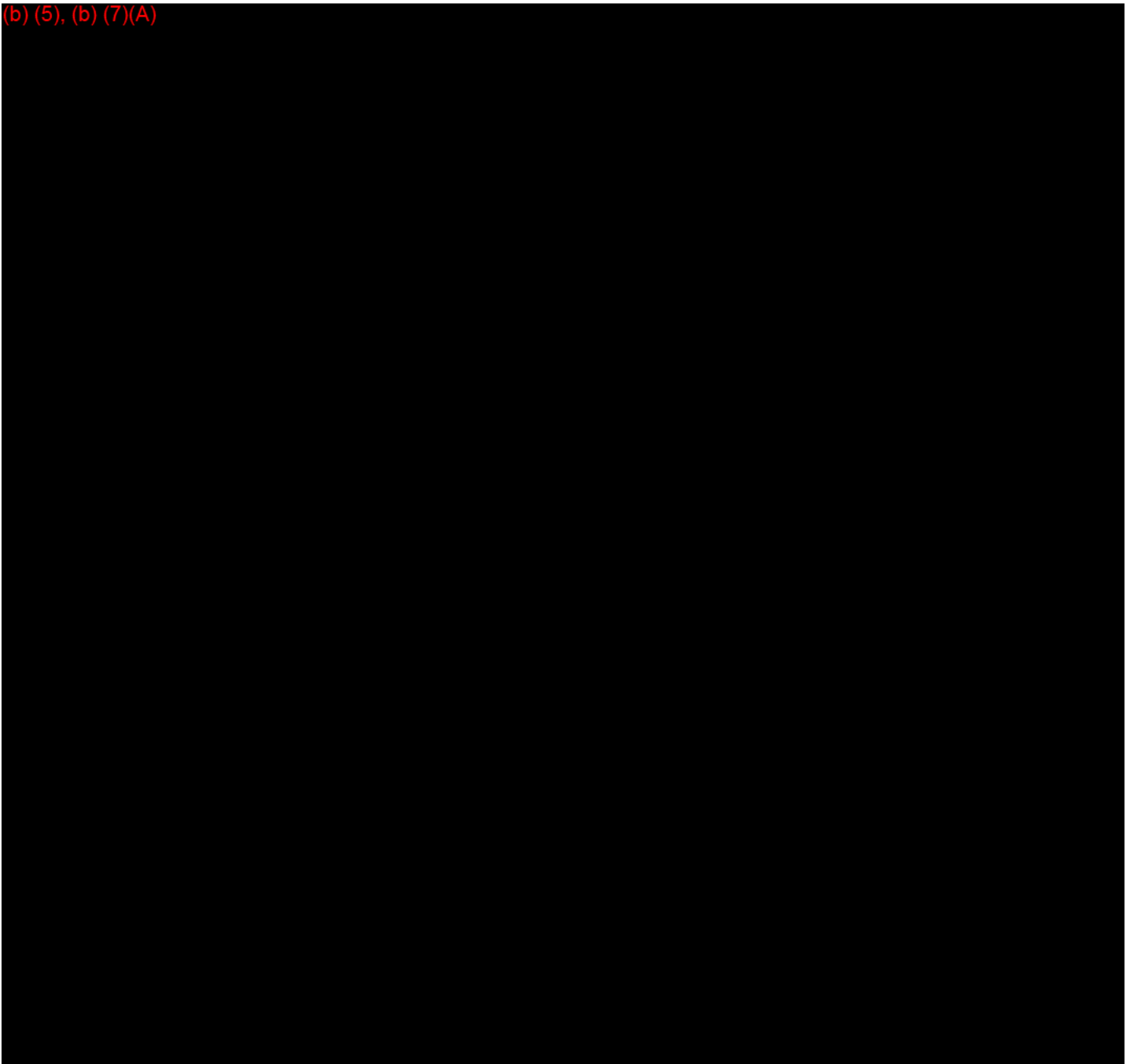
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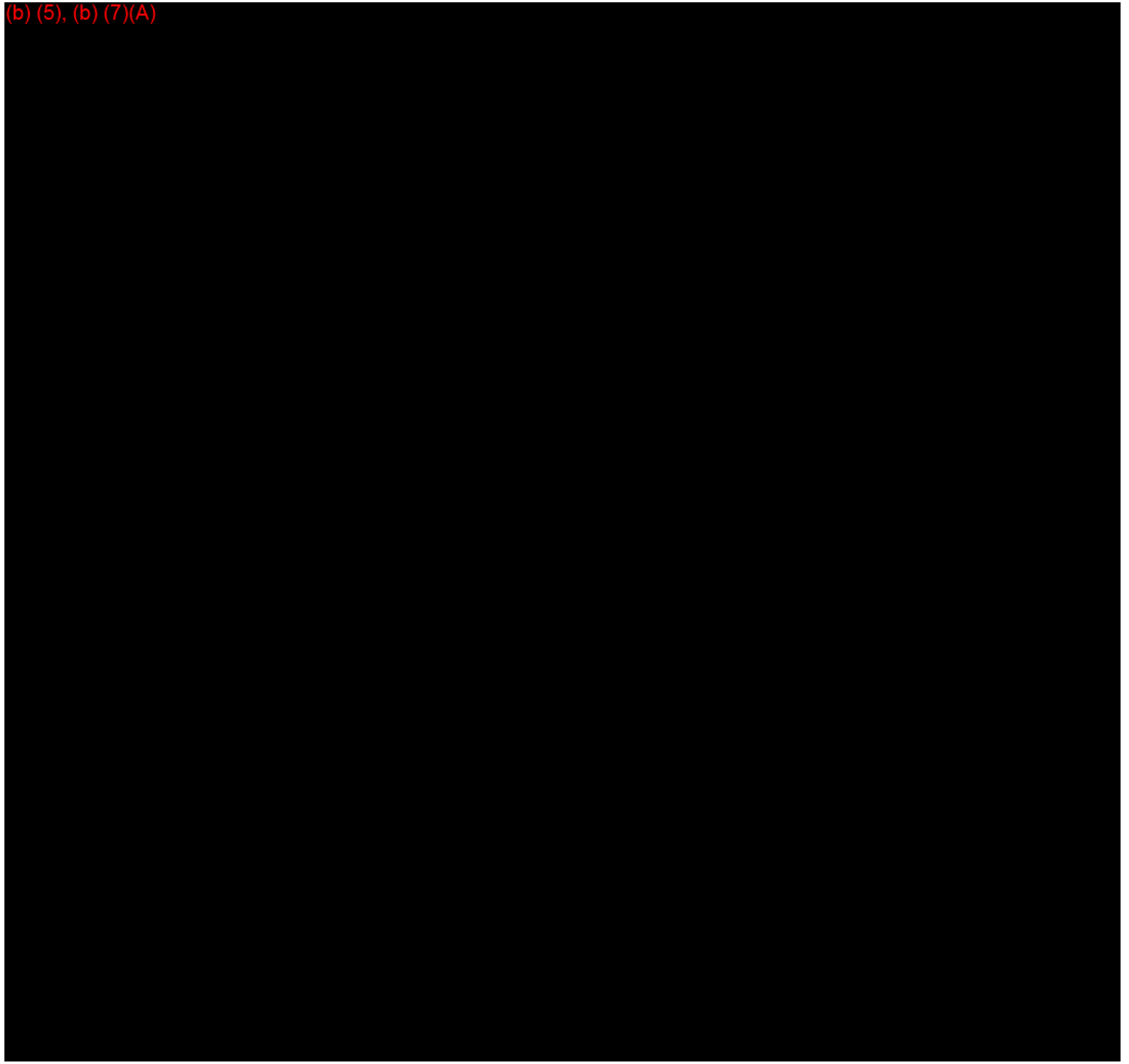
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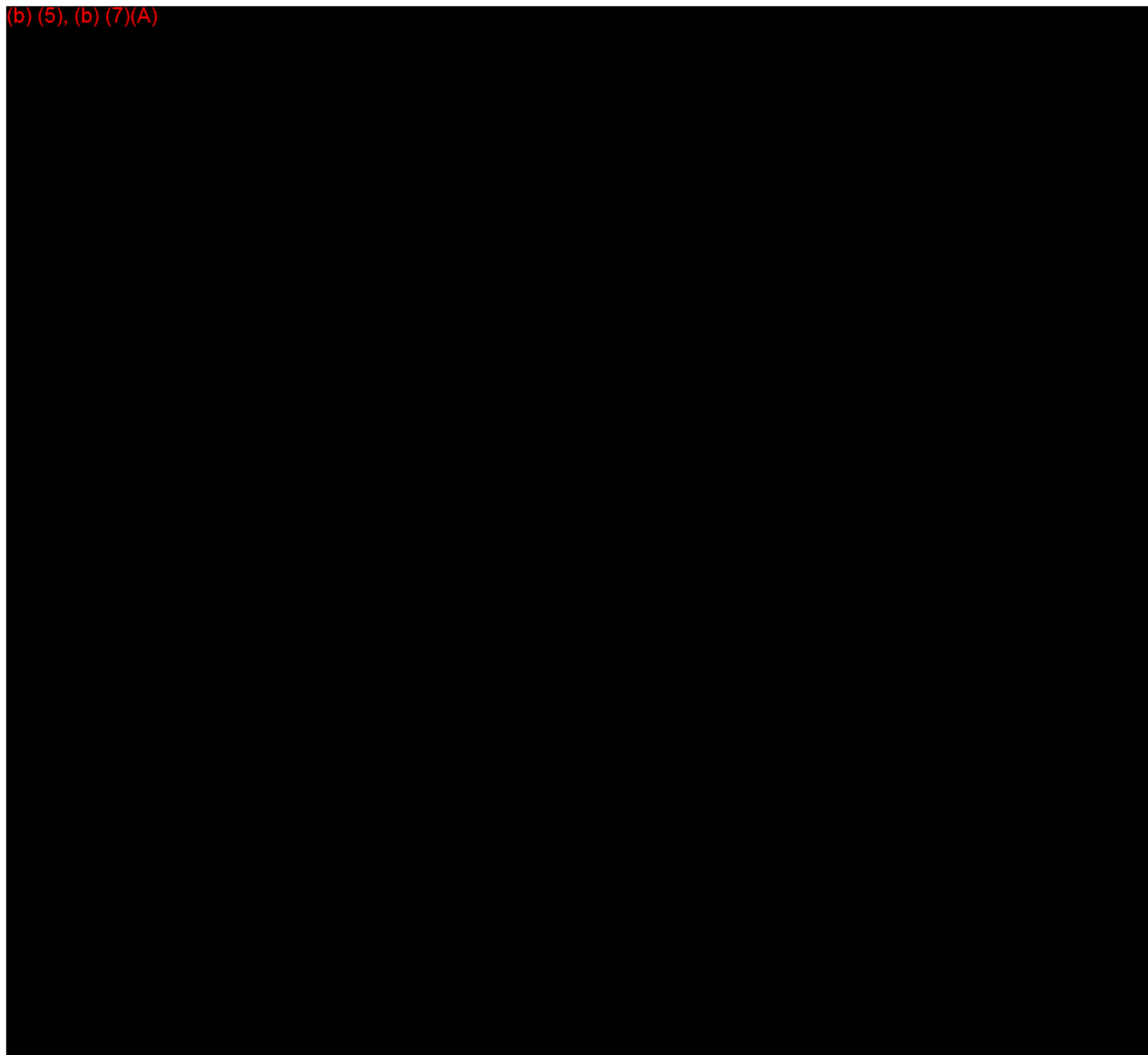
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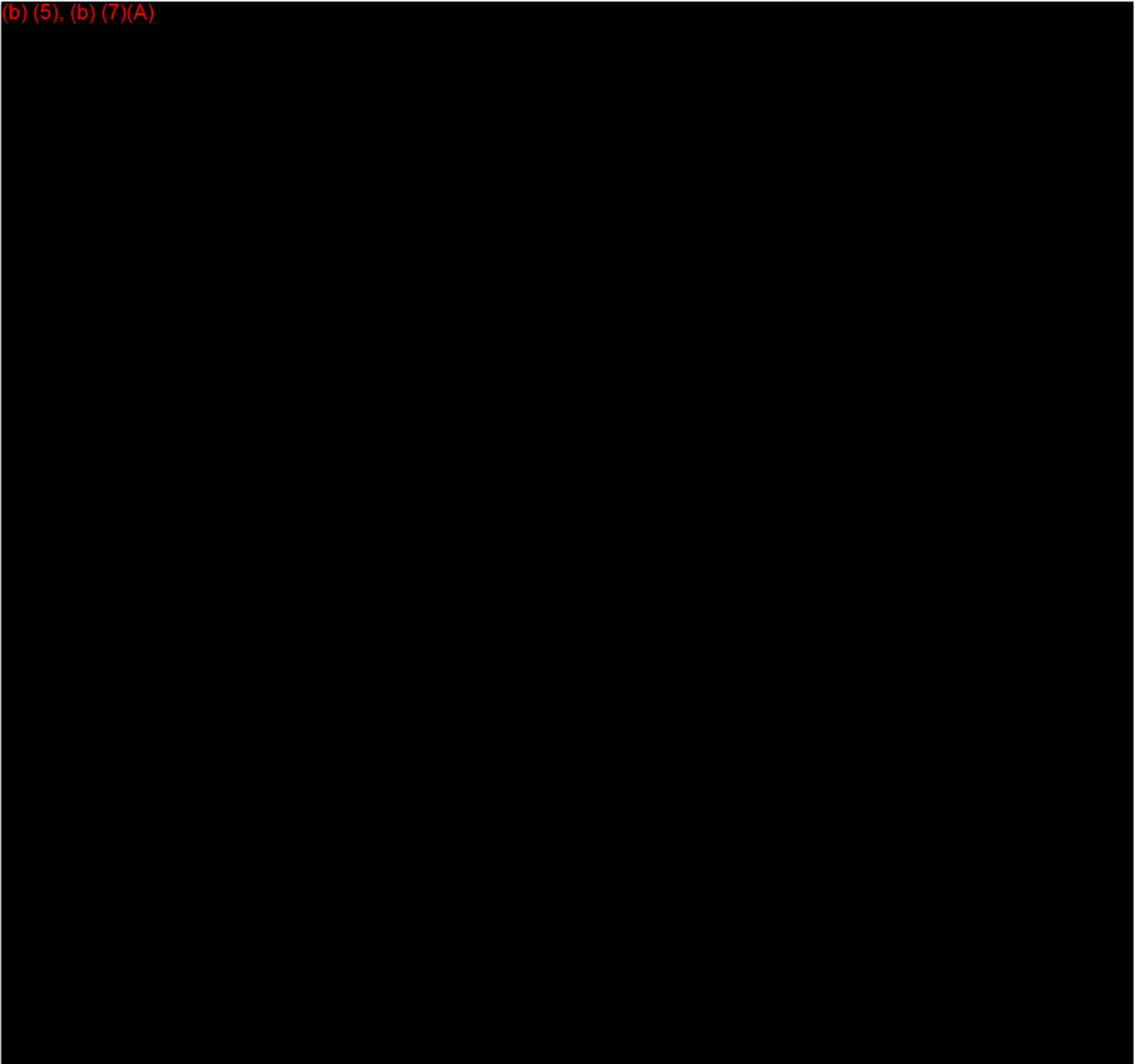
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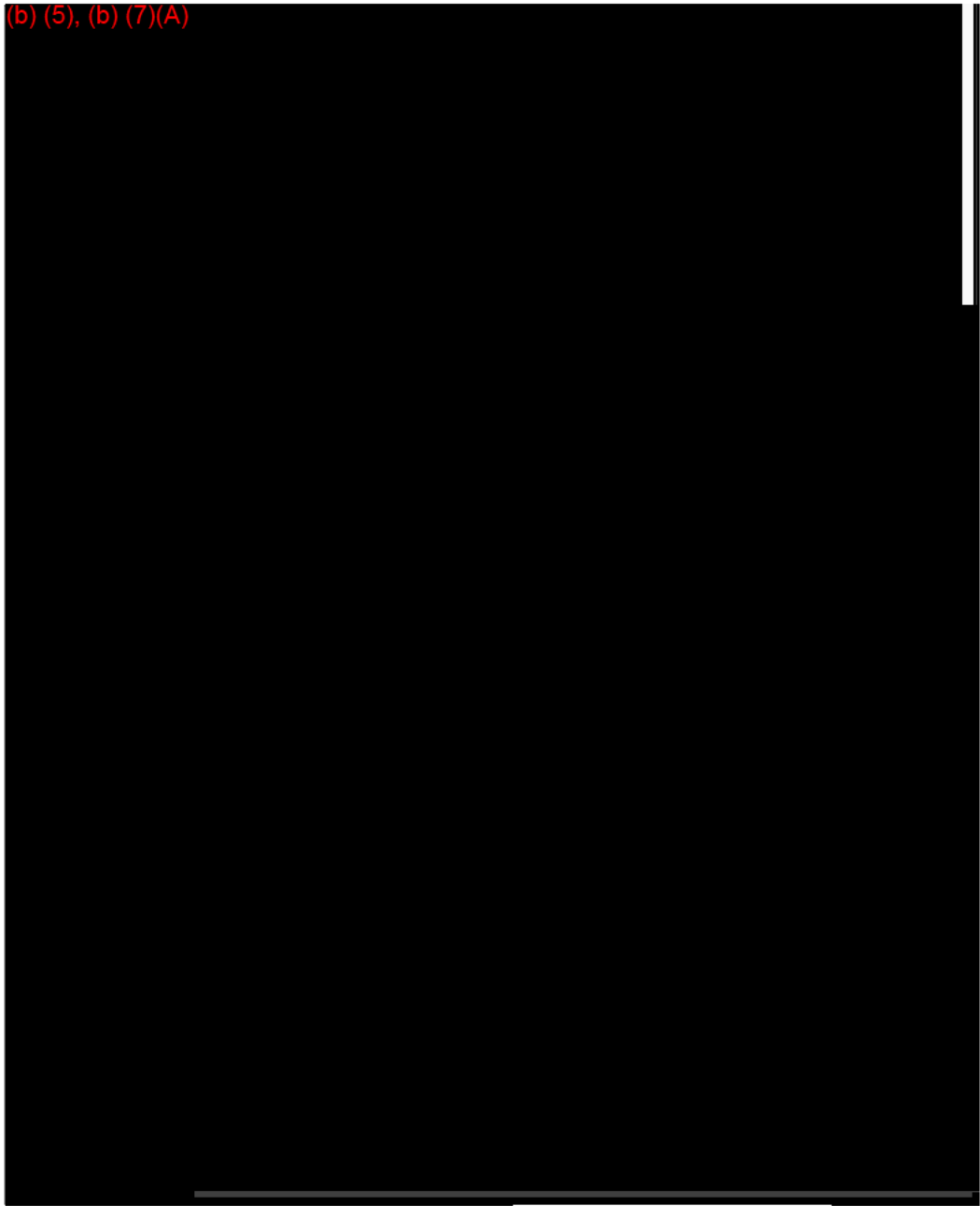
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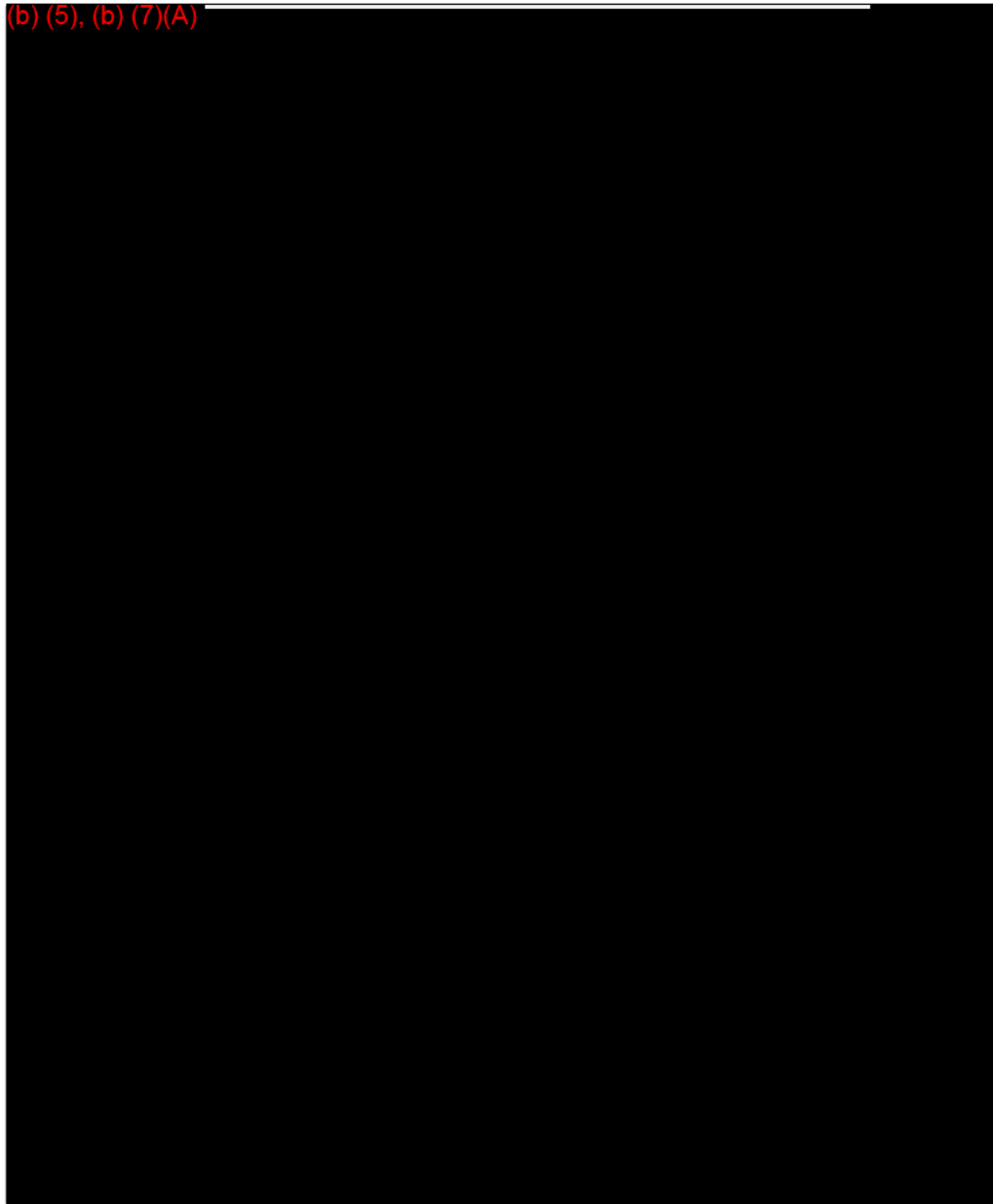
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(b) (5), (b) (7)(A)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

July 10, 2017

Return Receipt Requested

Certified Mail# 7015 3010 0001 1267 6024

Ms. Marianne Engelman Lado
Visiting Clinical Professor of Law
Environmental Justice Clinic
Yale Law School
127 Wall Street
New Haven, Connecticut 06511

Dear Ms. Engelman Lado:

Thank you for your June 9, 2017, letter addressed to me and Director Grether, Michigan Department of Environmental Quality (MDEQ). In your letter, you request that Complainants participate in discussions regarding resolution of Complaint No. 17-RD-16-R5 and relief relevant to findings in Complaint No. 01R-94-R5.

As you correctly note in your letter, it is the External Civil Rights Compliance Office's (ECRCO) policy and practice to promote appropriate involvement by complainants and recipients in the external complaint process.¹ We are committed to a fair and transparent process and will continue to update you and the Complainant in case number 17RD-16-R5, involving the Flint water issue, as we engage further with MDEQ in informal resolution of this case. You may recall that we previously briefed you as well as the Complainants on ECRCO's efforts to reach an Informal Resolution Agreement with MDEQ that would serve to resolve both the currently open Flint water case and the now closed Genesee Power Plant case (01R-94-R5). We also subsequently briefed you on the status of the two cases and, specifically, about the Resolution/Closure Letter related to Case No. 01R-94-R5, prior to its issuance.

ECRCO is currently in the process of updating a proposed Informal Resolution Agreement in light of the Resolution/Closure Letter issued on January 19, 2017, in Case No. 01R-94-R5 and MDEQ's most recent submission of information to ECRCO dated March 6, 2017. We plan to share the updated draft Informal Resolution Agreement with MDEQ in the near future in efforts

¹See ECRCO Case Resolution Manual at <https://www.epa.gov/ocr/case-resolution-manual> and Role of Complainants and Recipients in the Title VI Complaints and Resolution Process, at https://www.epa.gov/sites/production/files/2017-02/documents/roles-of-complainants-and-recipients-issue_final.pdf.

Ms. Marianne Engelman Lado

to resolve the pending complaint involving Flint water, Case No. 17RD-16-R5. Once we have finalized our work on that draft Informal Resolution Agreement, we will contact you to schedule a conversation with you and the Complainant in order to update you on the progress of this matter, share information with you about our draft proposed Informal Resolution Agreement, and as has been our practice, receive any information or comments that you might have.

Again, thank you for your letter. We look forward to speaking with you in the near future. Please let me know if you have any questions.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Cc:

C. Heide Grether, Director
Michigan Department of Environmental Quality

Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 11, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 17X-17-R4

(b) (6), (b) (7)(C)

Franklin Correction Center

(b) (6), (b) (7)(C)

Bunn, NC (b) (7)(C), (b) (6)

Re: Rejection of Administrative Complaint

Dear (b) (6), (b) (7)(C)

On May 1, 2017, the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) received your correspondence regarding the possibility that you may have been exposed to asbestos between 1980 and 1982 while you were working during high school. You state that this occurred because your employer did not provide appropriate equipment or training. Please note that ECRCO is responsible for enforcing several civil rights laws which, together, prohibit discrimination on the basis of: race, color, or national origin (including on the basis of limited-English proficiency); sex; disability; and age, by applicants for and recipients of federal financial assistance from EPA. As explained below, ECRCO cannot accept your complaint for investigation as it does not meet the jurisdictional requirements of EPA's Regulation at 40 C.F.R. Part 7.

Pursuant to the EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of each administrative complaint for acceptance, rejection, or referral. To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, age, sex, or disability). Id. Third, it must be filed within 180 days of the alleged discriminatory act. See 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

You did submit your complaint in writing. However, you have not described an act of discrimination that, if true, would violate one of the laws enforced by our office. In addition, our office does not have jurisdiction to act upon actions which began and ended several years ago. You also did not include the name of the government agency that hired you for the work at the

(b) (6), (b) (7)(C)

Page 2

Alamance School District. The District does not receive funding from the EPA. For these reasons, ECRCO lacks the required jurisdiction to proceed and must close this matter as of the date of this letter.

You may find the following websites helpful regarding your concerns about possible asbestos contamination. The North Carolina Department of Environmental Quality has a link at <https://deq.nc.gov/about/divisions/environmental-assistance-customer-service/deacs-permit-guidance/faq#asbestos>. The EPA also has a link at <https://www.epa.gov/asbestos> which might be helpful.

If you have any further questions about this correspondence, please contact Debra McGhee, Team Lead, at 202-564-4646, or by email at mcghee.debra@epa.gov.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Vickie Tellis
Acting Assistant Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 16, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 18X-16-R5

(b) (6), (b) (7)(C)

Barrington, IL 60010

Re: Acknowledgement of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

Thank you for contacting us again. This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received your correspondence on May 10, 2017. We were formerly a division within the Office of Civil Rights (OCR) and received your original correspondence on October 5, 2015. We mailed you an acknowledgment of that receipt on October 9, 2015.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation, or reject, or refer the complaint to another Federal agency.

In the interests of ensuring whether we are the correct office to address your concerns as described above, we previously mailed you questions by Certified Mail regarding your initial correspondence on August 9, 2016. A notice was left at your residence by the U.S. Postal Service (USPS) on August 13, 2016. This request for clarification was held at a post office near your residence until September 2, 2016, returned to us as unclaimed on September 7, 2016, and arrived unopened to OCR via USPS on September 12, 2016. As a result of not receiving a response from you to our inquiry, we were unable to render a jurisdictional determination and closed the 01X-16-R5 casefile on February 16, 2017.

While we are unable to re-open your original correspondence for consideration, if you would like to have us consider your May 2017 correspondence as a new complaint, we are asking that you

respond to this letter. To this effect, please contact me by telephone at (202) 564-7299 or by email at temple.kurt@epa.gov at your earliest convenience.

Sincerely,


for

Kurt Temple
Senior Advisor
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Robert Kaplan
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 5



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 14, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 18X-17-R5

(b) (6), (b) (7)(C)

Barrington, IL 60010

Via Email:

(b) (6), (b) (7)(C)

Re: Rejection of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

On May 10, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office of Civil Rights (ECRCO), received correspondence from you raising a concern about sidewalks and property becoming contaminated by the merging of sewage and storm drains, especially after particularly significant storms, and the potentially detrimental health impacts this situation may have on residents. ECRCO has determined that it cannot accept your administrative complaint for investigation because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation because your complaint did not describe an alleged discriminatory act based on race, color, national origin, sex, age or disability, that, if true, would violate EPA's nondiscrimination regulation. Since the filing of your complaint, you submitted additional correspondence to ECRCO on June 5, 2017, regarding your concern. However, neither that correspondence nor your initial May 10, 2017, correspondence provided us with the information necessary to establish jurisdiction over the issues raised in your correspondence. As a result, ECRCO sent you a request for clarification via email on June 8, 2017, and requested that you respond within 15 days. To date, ECRCO has not received a response from you to our request.

Based on the foregoing, the ECRCO is rejecting and closing this complaint as of the date of this letter. You may wish to contact the following agency regarding your concern:

Illinois Environmental Protection Agency
Bureau of Water/Compliance Assurance Section - MC #19
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
Telephone: 217-782-9720
Fax: 217-782-9891

If you have any questions about this correspondence, please contact Jonathan Stein of my staff by telephone at (202) 564-2088, by email at stein.jonathan@epa.gov, or by mail to U.S. EPA, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C., 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel,
Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 16, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 5799

In Reply Refer to:

EPA File No. 18X-17-R5

Karen Darch
Village President
Village of Barrington
Village Hall
200 South Hough Street
Barrington, Illinois 60010

Re: Acknowledgement of Administrative Correspondence

Dear President Darch:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence on May 10, 2017, involving the Village of Barrington.

ECRCO is responsible for processing and resolving complaints alleging discrimination on the basis of race, color, national origin, sex, disability status and/or age in programs or activities receiving financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation or reject, or refer the complaint to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 564-7299 or by email at temple.kurt@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Temple", written over the word "Sincerely,".

for Kurt Temple
Senior Advisor
External Civil Rights Compliance Office
Office of General Counsel

Ms. Karen Darch

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Robert Kaplan
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA, Region 5



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 14, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 6154

In Reply Refer to:

EPA File No. 18X-17-R5

Karen Darch, Village President
Jeff Lawler, Village Manager
Village of Barrington
Village Hall
200 South Hough Street
Barrington, IL 60010

Re: Rejection of Administrative Correspondence

Dear President Darch and Manager Lawler:

On May 10, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office of Civil Rights (ECRCO), received correspondence from a Village resident (Complainant) raising a concern about sidewalks and property becoming contaminated by the merging of sewage and storm drains, especially after particularly significant storms, and the potentially detrimental health impacts this situation may have on residents. ECRCO has determined that it cannot accept this administrative complaint for investigation because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient

Ms. Karen Darch
Mr. Jeff Lawler

Page 2

of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation because the complaint did not describe an alleged discriminatory act that, if true, would violate EPA's nondiscrimination regulation. That is, the Complainant did not indicate how, when, and on what basis(es) (race, color, national origin, sex, age or disability), the Village of Barrington discriminated against her.

Since the filing of this complaint, Complainant submitted additional correspondence to ECRCO via email on June 5, 2017, regarding Complainant's concern. However, neither that correspondence nor their initial May 10, 2017, correspondence provided us with the information necessary to establish jurisdiction over the issues raised in Complainant's correspondence. As a result, ECRCO sent Complainant a request for clarification via email on June 8, 2017, and requested that Complainant respond within 15 days. To date, ECRCO has not received a response from Complainant to our request.

Based on the foregoing, ECRCO is rejecting and closing this complaint as of the date of this letter. We have notified the Complainant that she may wish to contact the Illinois Environmental Protection Agency, Bureau of Water/Compliance Assurance Section.

If you have any questions about this correspondence, please contact Jonathan Stein of my staff by telephone at (202) 564-2088, by email at stein.jonathan@epa.gov, or by mail to U.S. EPA, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C., 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights and Finance Law Office

Cheryl Newton
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 5

Create Control - Data Entry

Control Number: OCR-17-000-8822 Alternate Number:

Citizen Information

Citizen/Originator: 1), (b) (6), (b) (7)(C)

 Search Citizen

Constituent:

 Search ConstituentCommittee: Sub-Committee:

Control Information

Status: Pending Letter Date: Feb 15, 2017 Received Date: May 16, 2017 Contact Type: LTR (Letter) Priority Code: Normal Addressee: (+)Addressee Org: File Code: Signature: (+)

CC:

 Search CCSignature Date: Date Primary Subject: Correspondence received from DOJ regarding raw sewage back up to due to broken sewer system (+) *Secondary Subject: (+)Instructions: (+) *Instruction Notes: General Notes:

*: Required field

(+) : Lookup field, press space bar for complete list

 Save Continue and Assign Cancel

2/15/2017
Report: R303

DEPARTMENT OF JUSTICE
Civil Rights Division
Disability Rights Section
Correspondence Tracking System

586893
Page 4 of 14

Complaint #:

Srct #: 17-2BHBO-6TJ4

Issue: OTHR

Filed: Yes

Effort: No

Section: DRS

Discrimination: 09/02/2016

Complaint Received: CTSOWN - 02/15/2017

Filed Organization: Department of Justice

MAY 16 2017
POST

RD4-43-D

DEPARTMENT OF JUSTICE RECORD
FEB 15 2017
CIVIL RIGHTS DIVISION DISABILITY RIGHTS SECTION

DEPARTMENT OF JUSTICE
Civil Rights Division
Disability Rights Section
Correspondence Tracking System

Complaint : We are buying 10+ acres that we are presently living on at [REDACTED] we made the purchase in October of 2011 and will be paid in full in two years. Our property consists of tracts 3, 4 and 5 and each tract is approximately 3 1/3 + acres and a small tract on the other side of [REDACTED] Tract two is owned by our neighbor at [REDACTED] and is a one acre tract with a house. Three years ago we notice a very bright green grassy area that was wet around our neighbor's septic tank and lateral lines and a distinct sewer smell. My husband told our neighbor that it was probably time to have her septic system pumped. The neighbor replied that she believed the smell was coming from our chicken coop and not her sewer. Approximately a year later I had our neighbor follow me to her lateral lines so I could show her she was having a problem with her septic. At this point Ms. Rademann became aware that she did have a septic leak. The Spring of 2016 the sewage became very saturated in the ground and was laying upon the ground and had crossed onto our property above ground. We informed our neighbor, and in June or July she called a sewer tank pump service to come out and pump out her tank. My husband and I were present when the serviceman explained to our neighbor that she might as well wait to have it pumped after she had her system replaced as the current system was now completely full and packed because of not being maintained and her lateral lines were to short and she now needed a different kind of system. By September 02 the raw sewage had crossed onto our property all the way to our house foundation, a length of about 90 feet and about 50 feet from our well. On this day we filed a complaint with the health department and spoke with the Health Department Director. Immediately in the conversation he told us, "we do not like to be consider as sewer gods at the health department, we don't want to kick poor people out of their homes because they can't afford to fix their sewers". The director repeated this statement or something similar 2-3 times. We explained that we both had autoimmune diseases and that I had lost 19 lymph nodes two years ago from breast cancer and that we were more susceptible to viruses, bacteria and diseases. An environmental inspector from that department came out to the property the following week and after observation of standing water and blood worms determined the septic system was not maintaining her sewage properly. WE explained our health situation to the inspector whose name was Brad Carter. A day or so later we were told by the inspector that he had a notice sent to our neighbor giving her 45 days to have the system replaced or repaired. The 45th day was October 26 and there has been no attempt to have the septic system fixed by our neighbor and the health department extended her time an additional 15 business days, which would be the end of November. At that point the case would be turned over to the prosecuting attorney of Miller County and however criminal charges will not be brought by the prosecutor told me, "he was apologetic but did not have the manpower to prosecute such cases. According to Assistant to the State of Missouri attorney General, Laura Elsbury, the Miller County Prosecutor is the only person with any authority to do something about this issue. I do not remember if I told the prosecutor about our health situations on that day. With all of this said we are nearly half way through our story. The bottom line is every agency or person of authority in the State of Missouri and a few at the Federal level did not perform their duties as the state statutes and Federal Law requires nor at any time was any consideration given for our health situations or the health of the people who have wells on the same water table that this sewage has been seeping into the ground for over three years. We are still trying to get the sewage stopped

DEPARTMENT OF JUSTICE
Civil Rights Division
Disability Rights Section
Correspondence Tracking System

Person #: 200045535	Type : CV - Correspondent/Writer	Contact By : PHON
	Title :	Disability : OTHR
	Name :	Phone :
	Address :	E-Mail :
Organization :		
 200045536	Type : RS - Respondent/Subject	Contact By : PHON
	Title :	Disability :
	Name :	Phone : 573-369-2359 (O)
	Address : 2125 Hwy 52	E-Mail : n/a
	Organization : Tuscumbia MO, 65082	
	Organization : Miller County Health Department and others	



U.S. Department
of Justice

Disability Rights Section - NYA
950 Pennsylvania Avenue, NW
Washington, D.C. 20460

Notice of Referral of Complaint for Appropriate Action

APR 14 2017

To: Mr. Rafael DeLeon,
Director, Office of Civil Rights
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Room 2450
Washington, D.C. 20460

(b) (7) (C), (b) (9) (A)

From: Disability Rights Section, Civil Rights Division, U.S. Department of Justice

Reference:

CTS# 586893; regarding Miller County Health
Department and Others, Tusculum, MO; received
by DOJ on Feb 15, 2017

The Disability Rights Section has reviewed the enclosed complaint and determined that it raises issues that are more appropriately addressed by the U.S. Environmental Protection Agency. We, therefore, are referring this complaint to that agency for appropriate action. This letter serves to notify that agency and the complainant of this referral. The Disability Rights Section will take no further action on this matter.

To check the status of the complaint, or to submit additional information, the complainant may contact the referral agency at the address above or at the following telephone number(s):

(202) 564-7272

If the agency has any questions or concerns about this referral or believes that it raises issues outside the agency's jurisdiction, please do not hesitate to contact the Department of Justice at the address and phone number attached hereto

DJ# 204-43-0

Rec'd by R. DeLeon
on May 16, 2017

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 24, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 19X-17-R7

(b) (6), (b) (7)(C)

Eldon, MO 65026

Re: Acknowledgement of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence from the U.S. Department of Justice on May 16, 2017.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation, or reject, or refer the complaint to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 564-7299 or by email at temple.kurt@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Temple".

Kurt Temple
Senior Advisor
Office of Civil Rights

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

(b) (6), (b) (7)(C)

Page 2

Mike Brinck
Assistant Regional Administrator
Deputy Civil Rights Official
EPA Region 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

June 19, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 19X-17-R7

(b) (6), (b) (7)(C)

Re: Closure of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

On May 16, 2017, the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) received your correspondence as a referral from the U.S. Department of Justice. Your correspondence generally alleges that the Miller County Department of Health and the courts were unable to prosecute your neighbor for failing to maintain a private, residential septic system which has reportedly impacted your property. As discussed below, ECRCO does not have the required jurisdiction to accept your correspondence as a complaint for investigation. Accordingly, this matter is closed as of the date of this letter.

Pursuant to the EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of discrimination complaints for acceptance, rejection, or referral. See 40 C.F.R. § 7.120(d)(l). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. See 40 C.F.R. § 7.120(b). Finally, the complaint must be filed against an applicant for, or a recipient of EPA assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

ECRCO contacted you on June 8, 2017, to obtain additional information related to your concerns. As discussed, your concerns do not describe an alleged discriminatory act that, if true, could violate the EPA's nondiscrimination regulations and you stated that it is not your intent to file a discrimination complaint. After careful review, the ECRCO is rejecting your complaint for investigation as it does not meet the jurisdictional requirements in EPA's nondiscrimination regulations. This matter is closed as of the date of this letter.

If you have questions about this letter, please feel free to contact Jeryl Covington, Case Manager, at 202-564-7713 (covington.jeryl@epa.gov).

Sincerely,



Lilian S. Dorka
Director, External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Mike Brinck
Assistant Regional Administrator
Deputy Civil Rights Official
EPA Region 7

From: (b) (6), (b) (7)(C)
To: [Title VI Complaints](#)
Subject: Harassment and Sexism at Marketeering Group in Seattle
Date: Saturday, June 03, 2017 2:20:37 PM

Individual Filing Complaint: (b) (6), (b) (7)(C)
Cellphone: (b) (6), (b) (7)(C)
Email: (b) (6), (b) (7)(C)

Employment Start Date: January 5, 2015
Employment End Date: May 30, 2017
Company Name: Marketeering Group
Business License Company Name: (b) (6), (b) (7)(C)
Business Owners: (b) (6), (b) (7)(C)
Manager Name & Title: (b) (6), (b) (7)(C)

Feb 10 2015 - May 2015

(b) (6), (b) (7)(C)

June 2015

(b) (6), (b) (7)(C)

August 2015

(b) (6), (b) (7)(C)

January 2016

(b) (6), (b) (7)(C)

May 2016 (b) (6), (b) (7)(C)


July 2016

(b) (6), (b) (7)(C)

September 2016


(b) (6), (b) (7)(C)

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October 2016

(b) (6), (b) (7)(C)

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November 2016

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December 2016

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January 2017

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January 2017

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March 2017

(b) (6), (b) (7)(C)

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May 2017

(b) (6), (b) (7)(C)


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(b) (6), (b) (7)(C)



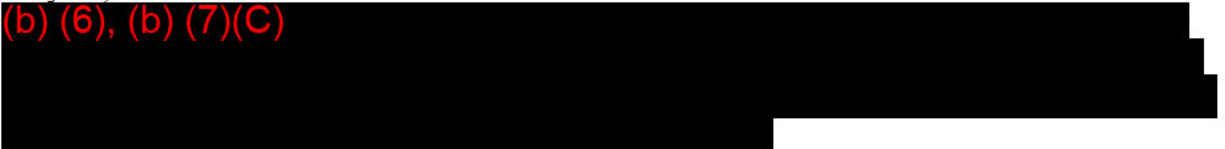
May 2017

(b) (6), (b) (7)(C)




May 25, 2017

(b) (6), (b) (7)(C)




May 30, 2017

(b) (6), (b) (7)(C)



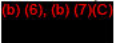
(b) (6), (b) (7)(C)



I leave and then I texted (b) (6), (b) (7)(C) and I requested a termination letter and would like to know in detail the reasoning for my termination and I requested it be signed and dated by the owners and himself. He agreed and said it was standard protocol and I would have it by the next business day. I have yet to receive anything.

(Please let me know if additional details are needed)

Cheers,
(b) (6), (b) (7)(C)



From: [McGhee, Debra](#)
To: [Harrison, Brenda](#)
Cc: [Temple, Kurt](#); [Dorka, Lilian](#)
Subject: FW: FW: Harassment and Sexism at (b) (6), (b) (7)(C) in Seattle
Date: Thursday, June 08, 2017 11:36:50 AM

Brenda – I responded to this correspondent by e-mail and she acknowledged receipt of the information below.

Debra E. McGhee

Team Lead
External Civil Rights Compliance Office
Office Phone: 202-564-4646

“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.” -- Martin Luther King, Jr. ,
18th April, 1959

From: (b) (6), (b) (7)(C)
Sent: Thursday, June 8, 2017 10:06 AM
To: McGhee, Debra <mcghee.debra@epa.gov>
Subject: Re: FW: Harassment and Sexism at (b) (6), (b) (7)(C) in Seattle

Hello Debra,

I appreciate you pointing me in the correct direction.

Cheers,

(b) (6), (b) (7)(C)

On Thu, Jun 8, 2560 BE at 6:53 AM McGhee, Debra <mcghee.debra@epa.gov> wrote:

Dear (b) (6), (b) (7)(C)

Your correspondence about alleged sexual harassment at the office where you work, (b) (6), (b) (7)(C) which was filed with the EPA through an electronic complaint mailbox, was forwarded to me for response.

I work for the External Civil Rights Compliance Office (ECRCO) of the Environmental Protection Agency. The ECRCO enforces laws prohibiting discrimination in programs funded by the EPA on the basis of race, color, national origin, sex, age and disability.

It does not appear from what you have written that the company that you work for is a recipient of EPA funding, thus it does not appear that ECRCO would be the appropriate agency to address your concern. However—there are other government agencies that enforce laws against discrimination based on sex within private companies of every type. Here are two that you may wish to contact:

- Washington State Human Rights Commission: <http://www.hum.wa.gov/employment>

The Washington State Human Rights Commission enforces the Washington State Law Against Discrimination - RCW Chapter 49.60 is a State law that protects all people in Washington from unfair and discriminatory practices in employment, real estate transactions, public accommodations, credit, insurance, as well as health care whistleblower, and state employee whistleblower complaints.

- U.S. Equal Employment Opportunity Commission:
<https://www.eeoc.gov/field/seattle/charge.cfm>

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. Most employers with at least 15 employees are covered by EEOC laws (20 employees in age discrimination cases). Most labor unions and employment agencies are also covered. The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

I hope the above information is helpful and that you will successfully resolve concerns affecting your work-life.

Sincerely,

Debra E. McGhee

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.” -- Martin Luther King, Jr. , 18th April, 1959

From the Title VI Complaints mailbox.

From: (b) (6), (b) (7)(C)

Sent: Saturday, June 03, 2017 2:19 PM

To: Title VI Complaints <Title_VI_Complaints@epa.gov>

Subject: Harassment and Sexism at (b) (6), (b) (7)(C) in Seattle

Individual Filing Complaint: (b) (6), (b) (7)(C)
Cellphone: (b) (6), (b) (7)(C)
Email: (b) (6), (b) (7)(C)

Employment Start Date: January 5, 2015

Employment End Date: May 30, 2017

Company Name: (b) (6), (b) (7)(C)

Business License Company Name: (b) (6), (b) (7)(C)

Business Owners: (b) (6), (b) (7)(C)

Manager Name & Title: (b) (6), (b) (7)(C)

Feb 10 2015 - May 2015

(b) (6), (b) (7)(C)

June 2015

(b) (6), (b) (7)(C)

August 2015

(b) (6), (b) (7)(C)

January 2016

(b) (6), (b) (7)(C)

May 2016 (b) (6), (b) (7)(C)

July 2016


(b) (6), (b) (7)(C)

September 2016

(b) (6), (b) (7)(C)

October 2016

(b) (6), (b) (7)(C)

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November 2016

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December 2016

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January 2017

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January 2017

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March 2017

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May 2017

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(b) (6), (b) (7)(C)

May 2017

(b) (6), (b) (7)(C)

May 25, 2017

(b) (6), (b) (7)(C)

May 30, 2017

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

I leave and then I texted (b) (6), (b) (7)(C) and I requested a termination letter and would like to know in detail the reasoning for my termination and I requested it be signed and dated by the owners and himself. He agreed and said it was standard protocol and I would have it by the next business day. I have yet to receive anything.

(Please let me know if additional details are needed)

Cheers,

(b) (6), (b) (7)(C)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

June 7, 2017

Return Receipt Requested

Certified Mail#: (b) (6)

In Reply Refer to:

EPA File No.: 21X-16-R3

(b) (6), (b) (7)(C)

Beltsville, MD 20705

Re: Rejection of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

On March 17, 2016, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received your correspondence regarding a low frequency hum that exists in your neighborhood of Beltsville, Maryland. You stated that this hum disrupts your home and is potentially contributing to a host of physical ailments experienced by you and your wife. Your complaint indicated that you were unclear about the source of the hum noise. In your complaint, you stated that you contacted Verizon, Comcast, and Pepco, and they did not seem to be responsible for the hum. You also mentioned a company called AiNET recently did cable installation infrastructure work in your neighborhood. ECRCO has determined that it cannot accept your administrative complaint for investigation because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to the EPA's nondiscrimination administrative regulations, ECRCO conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d)(1). Generally, ECRCO accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, it must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must be a discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or Section 504 disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation because you did not identify or file against an applicant for, or a recipient of EPA

financial assistance. Furthermore, your complaint did not describe the alleged discrimination, nor did you provide dates for an alleged discriminatory act. In other words, your complaint did not state how, when, who, and what basis discrimination occurred against you.

Since the filing of your complaint, ECRCO staff have spoken with you on several occasions in order to clarify your complaint. Specifically, ECRCO staff discussed the issues of your complaint with you on March 17, 2016, March 30, 2016, May 23, 2017, and May 31, 2017. However, the additional information obtained through these conversations, did not provide the needed jurisdictional basis to allow ECRCO to address the issues raised in your correspondence.

Based on the foregoing, the ECRCO is rejecting and closing this complaint as of the date of this letter. You may wish to contact the Prince Georges County Government to file a complaint under the County Noise Ordinance. They may be reached at (301) 883-4748.

If there are any questions regarding the ECRCO's decision, please contact Samuel Peterson of ECRCO, at (202) 564-5393, via electronic mail at peterson.samuel@epa.gov, or by mail at U.S. EPA, External Civil Rights Compliance Office, (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Deputy General Counsel
Civil Rights & Finance Law Office

John A. Armstead
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 3

(b) (6), (b) (7)(C)

Redlands, CA 92373

July 19, 2017

Environmental Protection Agency
Attn: Consumer Complaints
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

To Whom It May Concern:

Earlier this year, in April, it came to my attention that gasoline purchased from Arco over the past two years had turned the tips of the sparkplugs of our car a red-orange color (photo enclosed). Articles on the Internet blame this on additives. Since we never added gasoline additives of any kind, then it must have been Arco that added them. Enclosed is a copy of a letter of complaint to Arco. I guess it's up to organizations like yours to determine if such gasoline is fouling catalytic converters or affecting oxygen sensors. In any event, it can't be said that it's "clean-burning", having left deposits. In fact, this coloration occurred in less than 5,000 total miles; I can only imagine what 50,000 would look like.

Well, I've done my bit by bringing this matter to your attention. It's up to your organization to take any action, if needed.

Sincerely,

(b) (6), (b) (7)(C)

JUL 25 2017

(b) (6), (b) (7)(C)

Redlands, CA 92374

July 19, 2017

Arco Regional Headquarters
Attn: Consumer Complaints
4 Centerpointe Drive, Suite 100
La Palma, CA 90623-1074

To Whom It May Concern:

This is a letter of complaint.

Additives in your Arco TopTier gasoline are turning sparkplugs red (photo enclosed). I had to change the sparkplugs in our '97 Buick Skylark for the biennial smog check and couldn't help but notice that the tips weren't a light tan, like they're supposed to be but a deep red-orange color. I used Arco gasoline exclusively for at least the last 25 years and have to change out the sparkplugs with each smog test on this old car. Up until this time, the plugs have always been a light tan color. Your company has done something to the gasoline you sell that it's coating the tips of the sparkplugs with this reddish color. The big question is: Is it also leaving unburned red deposits on the intake valves or on the top of the pistons? And just as important, are these red deposits coating the catalytic converter and the oxygen sensors? Your gasoline is no longer clean-burning, and I'm wondering how much harm it has done to my engine and to the environment?

Sincerely,

(b) (6), (b) (7)(C)

P.S. I will never, ever buy Arco gasoline again.

copy to: Environmental Protection Agency
Bureau of Automotive Repair/California Smog Check Program
South Coast Air Quality Management District



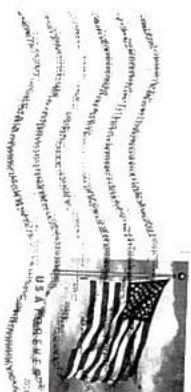
(b) (6), (b) (7)(C)

Redlands, CA 92373



STANDARDIZATION CODE

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2061743

Environmental Protection Agency
Consumer Complaints
Attn:
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

20460-



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

July 31, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 21X-17-R9

(b) (6), (b) (7)(C)

Redlands, CA 92373

Re: Closure of Administrative Correspondence

Dear (b) (6), (b) (7)(C)

On July 25, 2017, the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) received your correspondence regarding the effect of Arco gasoline additives on sparkplug tip discoloration. Please note that ECRCO is responsible for enforcing several civil rights laws which, together, prohibit discrimination on the basis of: race, color, or national origin (including on the basis of limited-English proficiency); sex; disability; and age, by applicants for and recipients of federal financial assistance from EPA. As your correspondence does not raise a claim of discrimination with which this office can assist, ECRCO is closing this matter as of the date of this letter.

With regard to your concern about gasoline additives, EPA has a Fuel Program Helpdesk which may be able to provide assistance. ECRCO suggests contacting the Helpdesk directly at 800-385-6164 with any questions you may have. You may also visit EPA's Gasoline Standards web page at <https://www.epa.gov/gasoline-standards> for additional information.

You may also wish to contact the California Environmental Protection Agency's Air Resources Board, which oversees the California Reformulated Gasoline Program. The California Air Resources Board can be reached via mail at the following address, 1001 "I" Street, Sacramento, CA 95814, and by telephone at (800) 242-4450. Additional information may be found at <https://www.arb.ca.gov/fuels/gasoline/gasoline.htm>.

If you have any further questions about this correspondence, please contact Kurt Temple, Senior Advisor, at 202-564-7299, or by email at temple.kurt@epa.gov.

Sincerely,



Lilian Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Deborah Jordan
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
U.S. EPA Region 9

McGhee, Debra

From: (b) (6), (b) (7)(C)
Sent: Tuesday, July 11, 2017 6:25 PM
To: McGhee, Debra
Subject: More info

I filed this complaint against Franklin Township . I included a list of the township supervisors who are responsible for changing the ordinances to allow fracking .

They have discriminated against me because they did not listen to my continuing complaints on how the fracking would affect my health . This has continued for over 3 years . The fracking company (b) (6), (b) (7)(C) after 3 years finally got their paperwork correct in order to proceed but the TWP ordinances did not protect me from harm allowing the fracking company to do anything they want. My complaint is on how they wrote the ordinances with no regard to my complaints on health requirements for diseased , handicapped, disabled or elderly . Since day one I have spoken about my disability and what the fracking will do to me . They simply did nothing . The ordinances were modified to allow fracking with anything that was necessary to get it done . Being that nothing will hurt me from the proposed drill site location until it is drilled I could only complain about the detrimental affects to come .

Sent from my iPhone



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

July 31, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No. 22D-17-R3

(b) (6), (b) (7)(C)

Butler, PA 16001-8563

Re: Acknowledgement of Administrative Complaint

Dear (b) (6), (b) (7)(C)

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received your correspondence on July 11, 2017.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation, or reject, or refer the complaint to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 564-7299 or by email at temple.kurt@epa.gov.

Sincerely,

A handwritten signature in black ink, which appears to read "Kurt Temple", is written over a horizontal line.

Kurt Temple
Senior Advisor
Office of Civil Rights

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

John A. Armstrong
Acting Deputy Regional Administrator
Deputy Civil Rights Official
EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 2, 2017

Return Receipt Requested

Certified Mail #: 7015-3010-0001-1267-5973

In Reply Refer to:

EPA File No: 22D-17-R3

Herman Bauer Jr.
Chair
Township Board of Administrators
Franklin Township
191 Election House Road
Prospect, PA 16052

Re: Acknowledgement of Receipt of Administrative Correspondence

Dear Mr. Bauer:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence on July 11, 2017 alleging discrimination based on disability in violation of Section 504 of the Rehabilitation Act of 1973 involving Franklin Township.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation or reject, or refer the complaint to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 564-4174, or by email at Rhines.Dale@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Rhines", is positioned above the typed name.

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

Mr. Herman Bauer Jr.

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Mike Brincks
Assistant Regional Administrator
Deputy Civil Rights Official
US EPA Region 7



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 8, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA No: 22D-17-R3

(b) (6), (b) (7)(C)

Butler, PA 16001 (b) (6), (b) (7)(C)

Re: Rejection of Administrative Complaint

Dear (b) (6), (b) (7)(C)

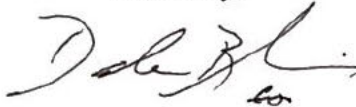
On July 11, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received your complaint alleging that the Franklin Township, Butler County, Pennsylvania (PA), has violated Section 504 of the Rehabilitation Act of 1973 and the EPA's nondiscrimination regulation (*see* 40 C.F.R. Part 7, Subpart C) by changing ordinances to allow fracking that did not protect you, a person with disabilities, from adverse health impacts. ECRCO has determined that it cannot accept this administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept this complaint for investigation because Franklin Township, Butler County, PA, is not an applicant for, or a recipient of, EPA financial assistance. Therefore, ECRCO is closing the complaint as of the date of this letter.

If you have not already done so, you may wish to raise your concerns with the Pennsylvania Department of Environmental Protection (PDEP), Headquarters, by calling PDEP at (717)783-2300, or writing to PDEP at Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. We are sorry that we are unable to assist you. If you have any questions about this letter, please contact Debra McGhee, Team Lead, at (202) 564-6464, by e-mail at mcghee.debra@epa.gov or by mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office, Mail Code 2310A, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

John A. Armstead
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
US. EPA Region 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 8, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 2316

In Reply Refer to:

EPA No: 22D-17-R3

Herman Bauer Jr.
Chair
Township Board of Administrators
Franklin Township
191 Election House Road
Prospect, PA 16052

Re: Rejection of Administrative Complaint

Dear Mr. Bauer:

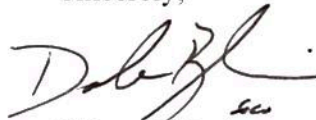
On July 11, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received a complaint alleging that the Franklin Township, Butler County, Pennsylvania (PA), violated Section 504 of the Rehabilitation Act of 1973 and the EPA's nondiscrimination regulation (*see* 40 C.F.R. Part 7, Subpart C) by changing ordinances to allow fracking and failing to protect the complainant, a person with disabilities, from adverse health impacts. ECRCO has determined that it cannot accept this administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept this complaint for investigation because Franklin Township, Butler County, PA, is not an applicant for, or a recipient of, EPA financial assistance. Therefore, ECRCO is closing the complaint as of the date of this letter. ECRCO has provided the complainant with contact information for the Pennsylvania Department of Environmental Protection.

If you have any questions about this letter, please contact Debra McGhee, Team Lead, at (202) 564-4646, by e-mail at mcghee.debra@epa.gov, or by mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office, Mail Code 2310A, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Lilian S. Dorka', with a small flourish at the end.

Lilian S. Dorka

Director

External Civil Rights Compliance Office

Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

John A. Armstead
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
US. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 18, 2017

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 6222

Roy L. Perry-Bey
Director of Civils Rights
United Front for Justice
Post Office Box 1772
Hampton, VA 23669

In Reply Refer to:

EPA File Nos. 23RD-17-R3 and
24RD-17-R3

Re: Acknowledgement of Administrative Complaint

Dear Mr. Perry-Bey:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received your correspondence on August 16, 2017, alleging discrimination based on race and disability in violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 involving the City of Norfolk and the Norfolk Redevelopment & Housing Authority.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation, or reject, or refer the complaint to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 564-4174 or by email at rhines.dale@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Rhines".

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

Mr. Roy L. Perry-Bey

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

John A. Armstead
Acting Deputy Regional Administrator
Deputy Civil Rights Official
EPA Region 3

RECEIVED

AUG 14 2017

EPA REGION III
OFFICE OF REGIONAL ADMINISTRATION

Confidential

RECEIVED

Fax

EPA, Region III, ORC

Aug. 10, 2017

Kindly, disregard the
previous fax due to
clerical errors and hard
copy mailed and except
this as if originally filed.

Thank you,
Mr. Perry-Ber
Executive Director
804.252.9109



August 10, 2017

Cecil A. Rodrigues, Acting Regional Administrator
US EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-2900 or 1-800-438-2474

Re: Pollution Complaint/Public Toxic Contamination

Dear Mr. Rodrigues:

This is an official complaint and request upon your office to open an investigation into the City of Norfolk and Norfolk Redevelopment and Housing Authority's, 2018 board approved plan to demolish and redevelop the Young's Terrance housing development, with heavy equipment, creating known public toxic contamination which would expose humans receptors to dangerous soil contamination, large amounts of airborne fragments and dust particulates from contaminated underground water loaded with highly organic hazardous substances such as coal tar, coal ash, iron, oily benzene and other poisonous coal by products, as poly nuclear aromatic hydrocarbons (PAHs) cyanide and phenolics, inorganic nitrogen compounds, metals and gases such as methane migrating off-site from the Old Virginia Electric & Power Norfolk Manufactured Coal Gasification Plant site, currently known as (HRT LOT #39, in the project's soil in unacceptable levels. That if ingested or inhaled, even in miniscule amounts, it can cause significant and irreversible brain damage as well as other health problems.

The demolition and redevelopment of the neighborhood, public streets, sidewalks, sewerage, storm sewers systems, hazardous waste removal etc., which could pose a threat to human health and the environment.

See attached link:

https://pilotonline.com/news/government/local/most-of-norfolk-s-public-housing-could-be-gone-in/article_359c3039-d094-50bf-b951-ee78dfa7c764.html

We are requesting an official timely response in the above referenced matter which should include any documents relating to the City's approved plan, response, cost, inspections, monitoring, regulations, permits, environmental assessment and any DEQ/EPA action taken.

Thanking you in advance,

Mr. Roy L. Perry-Bey
Director of Civil Rights
United Front for Justice
P.O. BOX 1772
Hampton, Virginia 23669
804.252.9109
ufj2020@gmail.com



August 10, 2017

Mr. David k. Paylor, Director
Department of Environmental Quality
629 E Main St.
Richmond, VA 23219
1-(804) 698-4000

Re: Pollution Complaint/Public Toxic Contamination

Dear Mr. Paylor:

This is an official complaint and request upon your office to open an investigation into the City of Norfolk and Norfolk Redevelopment and Housing Authority's, 2018 board approved plan to demolish and redevelop the Young's Terrance housing development, with heavy equipment, creating known public toxic contamination which would expose humans receptors to dangerous soil contamination, large amounts of airborne fragments and dust particulates from contaminated underground water loaded with highly organic hazardous substances such as coal tar, coal ash, iron, oily benzene and other poisonous coal by products, as poly nuclear aromatic hydrocarbons (PAHs) cyanide and phenolics, inorganic nitrogen compounds, metals and gases such as methane migrating off-site from the Old Virginia Electric & Power Norfolk Manufactured Coal Gasification Plant site, currently known as (HRT LOT #39, in the project's soil in unacceptable levels. That if ingested or inhaled, even in miniscule amounts, it can cause significant and irreversible brain damage as well as other health problems.

The demolition and redevelopment of the neighborhood, public streets, sidewalks, sewerage, storm sewers systems, hazardous waste removal etc., which could pose a threat to human health and the environment.

See attached link:

https://pilotonline.com/news/government/local/most-of-norfolk-s-public-housing-could-be-gone-in/article_359e3039-d094-50bf-b951-ee78d1a7c764.html

RECEIVED

AUG 14 2017

OFFICE OF REGIONAL ADMINISTRATOR

RECEIVED

EPA, Region III, ORC

We are requesting an official timely response in the above referenced matter which should include any documents relating to the City's approved plan, response, cost, inspections, monitoring, regulations, permits and any DEQ/EPA action taken.

Thanking you in advance,

Mr. Roy L. Perry-Bey
Director of Civil Rights
United Front for Justice
P.O. BOX 1772
Hampton, Virginia 23669
804.252.9109
ufj2020@gmail.com

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 18, 2017

Return Receipt Requested

Certified Mail #: 7015-3010-0001-1267-6239

In Reply Refer to:

EPA File No: 24RD-17-R3

Ms. Phyllis Everett
Administrative Office
Norfolk Redevelopment & Housing Authority
555 East Main Street
Norfolk, VA 23501

Re: Acknowledgement of Receipt of Administrative Complaint

Dear Ms. Everett:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence on August 16, 2017 alleging discrimination based on race and disability in violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 involving the City of Norfolk.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation or reject it, or refer the it to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 564-4174, or by email at Rhines.Dale@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Rhines", is positioned above the typed name.

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

Ms. Phyllis Everett

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

John Armstead
Acting Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 3

RECEIVED

AUG 14 2017

EPA REGION III
OFFICE OF REGIONAL ADMINISTRATION

Confidential

RECEIVED

Fax

EPA, Region III, ORC

Aug. 10, 2017

Kindly, disregard the
previous fax due to
clerical errors and hard
copy mailed and except
this as if originally filed.

Thank you,
✓ Mr. Perry-Ber
Executive Director
804.252.9109



August 10, 2017

Cecil A. Rodrigues, Acting Regional Administrator
US EPA Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-2900 or 1-800-438-2474

Re: Pollution Complaint/Public Toxic Contamination

Dear Mr. Rodrigues:

This is an official complaint and request upon your office to open an investigation into the City of Norfolk and Norfolk Redevelopment and Housing Authority's, 2018 board approved plan to demolish and redevelop the Young's Terrance housing development, with heavy equipment, creating known public toxic contamination which would expose humans receptors to dangerous soil contamination, large amounts of airborne fragments and dust particulates from contaminated underground water loaded with highly organic hazardous substances such as coal tar, coal ash, iron, oily benzene and other poisonous coal by products, as poly nuclear aromatic hydrocarbons (PAHs) cyanide and phenolics, inorganic nitrogen compounds, metals and gases such as methane migrating off-site from the Old Virginia Electric & Power Norfolk Manufactured Coal Gasification Plant site, currently known as (HRT LOT #39, in the project's soil in unacceptable levels. That if ingested or inhaled, even in miniscule amounts, it can cause significant and irreversible brain damage as well as other health problems.

The demolition and redevelopment of the neighborhood, public streets, sidewalks, sewerage, storm sewers systems, hazardous waste removal etc., which could pose a threat to human health and the environment.

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https://pilotonline.com/news/government/local/most-of-norfolk-s-public-housing-could-be-gone-in/article_359c3039-d094-50bf-b951-ee78dfa7c764.html

We are requesting an official timely response in the above referenced matter which should include any documents relating to the City's approved plan, response, cost, inspections, monitoring, regulations, permits, environmental assessment and any DEQ/EPA action taken.

Thanking you in advance,

Mr. Roy L. Perry-Bey
Director of Civil Rights
United Front for Justice
P.O. BOX 1772
Hampton, Virginia 23669
804.252.9109
ufj2020@gmail.com



August 10, 2017

Mr. David k. Paylor, Director
Department of Environmental Quality
629 E Main St.
Richmond, VA 23219
1-(804) 698-4000

Re: Pollution Complaint/Public Toxic Contamination

Dear Mr. Paylor:

This is an official complaint and request upon your office to open an investigation into the City of Norfolk and Norfolk Redevelopment and Housing Authority's, 2018 board approved plan to demolish and redevelop the Young's Terrance housing development, with heavy equipment, creating known public toxic contamination which would expose humans receptors to dangerous soil contamination, large amounts of airborne fragments and dust particulates from contaminated underground water loaded with highly organic hazardous substances such as coal tar, coal ash, iron, oily benzene and other poisonous coal by products, as poly nuclear aromatic hydrocarbons (PAHs) cyanide and phenolics, inorganic nitrogen compounds, metals and gases such as methane migrating off-site from the Old Virginia Electric & Power Norfolk Manufactured Coal Gasification Plant site, currently known as (HRT LOT #39, in the project's soil in unacceptable levels. That if ingested or inhaled, even in miniscule amounts, it can cause significant and irreversible brain damage as well as other health problems.

The demolition and redevelopment of the neighborhood, public streets, sidewalks, sewerage, storm sewers systems, hazardous waste removal etc., which could pose a threat to human health and the environment.

See attached link:

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RECEIVED

AUG 14 2017

OFFICE OF REGIONAL ADMINISTRATOR

RECEIVED

EPA, Region III, ORC

We are requesting an official timely response in the above referenced matter which should include any documents relating to the City's approved plan, response, cost, inspections, monitoring, regulations, permits and any DEQ/EPA action taken.

Thanking you in advance,

Mr. Roy L. Perry-Bey
Director of Civil Rights
United Front for Justice
P.O. BOX 1772
Hampton, Virginia 23669
804.252.9109
ufj2020@gmail.com



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 29, 2017

Return Receipt Requested

Certified Mail #: (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

In Reply Refer to:

EPA File No. 25R-15-R6

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

Alexandria, LA 71302

Re: Rejection of Administrative Complaint

Dear (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

The U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO), formerly known as the Office of Civil Rights (OCR) received a complaint you filed on August 23, 2015. The complaint alleged that Stella-Jones Inc., Colfax Treating Co., creosote facilities in Alexandria and Pineville, Louisiana owned by (b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy caused contamination leading to illness and death in the surrounding predominantly black community. After careful review, the ECRCO cannot accept your complaint for investigation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. See 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. See 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

ECRCO has concluded that it cannot accept your administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. Specifically, none of the above-mentioned creosote facilities and companies are

applicants for, or recipients of, EPA federal financial assistance. As a result, ECRCO does not have jurisdiction to investigate your claims. Accordingly, ECRCO is closing this case as of the date of this letter.

You spoke with Jeryl Covington, a member of my staff, about your complaint and discussed your close contact with Nancy Fagan of EPA's Region 6 through the "Making a Visible Difference" project. We contacted Nancy Fagan and she explained the work that she had been doing with you and the general Pineville community. We encourage you to continue to work with EPA's Region 6 Office. Specifically, you may contact Diana Greiner or Charlotte Runnels of EPA Region 6 if you have any outstanding environmental justice concerns. Their contact information is as follows:

Diana Greiner, Life Scientist
Greiner.diana@epa.gov
(214) 665-6492

Charlotte Runnels, Environmental Justice
Runnels.Charlotte@epa.gov
(214) 665-6442

If you have questions regarding this letter, please contact Zahra Khan at (202) 564-0460, by email at khan.zahra@epa.gov, or by mail at U.S. EPA, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, DC, 20460-1000.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

David Gray
Acting Deputy Regional Administrator
Acting Deputy Civil Rights Official
EPA, Region 6

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 21, 2017

Return Receipt Requested

Certified Mail #: (b) (6)

In Reply Refer to:

EPA File No: 25R-17-R2

(b) (6), (b) (7)(C)

Syracuse, NY 13210

Re: Acknowledgement of Receipt of Administrative Complaint

Dear (b) (6), (b) (7)(C)

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received your correspondence on September 20, 2017 alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964, involving Bristol-Myers Squibb.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation or reject, or refer it to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact Debra McGhee, Team Lead, by telephone at (202) 564-4646, or by email at mcghee.debra@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Rhines".

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

(b) (6), (b) (7)(C)

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Richard Manna
Assistant Regional Administrator
Deputy Civil Rights Official
EPA Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 21, 2017

Return Receipt Requested

Certified Mail #: 7015-3010-0001-1267-2408

In Reply Refer to:

EPA File No: 25R-17-R2

J. Richard Pooler, Jr.
Assistant General Counsel
Environmental Health & Safety
Bristol-Myers Squibb
6000 Thompson Road
East Syracuse, NY 13057

Re: Acknowledgement of Receipt of Administrative Complaint

Dear Mr. Pooler:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence on September 20, 2017 alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964, involving Bristol-Myers Squibb.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation or reject, or refer it to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact Debra McGhee, Team Lead, by telephone at (202) 564-4646, or by email at mcghee.debra@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Rhines", is positioned above the printed name.

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

J. Richard Pooler, Jr.

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Richard Manna
Assistant Regional Administrator
Deputy Civil Rights Official
US EPA Region 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

September 21, 2017

Return Receipt Requested

Certified Mail #: 7015-3010-0001-1267-2392

In Reply Refer to:

EPA File No: 25R-17-R2

Sheryl Ascenzi
Human Resources Manager
Bristol-Myers Squibb
6000 Thompson Road
East Syracuse, NY 13057

Re: Acknowledgement of Receipt of Administrative Complaint

Dear Ms. Ascenzi:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence on September 20, 2017 alleging discrimination based on race in violation of Title VI of the Civil Rights Act of 1964, involving Bristol-Myers Squibb.

ECRCO is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. ECRCO will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within ECRCO's jurisdiction. Once this jurisdictional review is completed, ECRCO will notify you as to whether it will accept the complaint for investigation or reject, or refer it to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact Debra McGhee, Team Lead, by telephone at (202) 564-4646, or by email at mcghee.debra@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Rhines", is positioned above the typed name.

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

Ms. Sheryl Ascenzi

Page 2

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Richard Manna
Assistant Regional Administrator
Deputy Civil Rights Official
US EPA Region 2

(b) (7)(C) - Enforcement Privacy

Syracuse, NY 13210

(b) (7)(C) - Enforcement Privacy

September 17, 2017

U.S. Environmental Protection Agency
Mail code 1201A
1200 Pennsylvania Avenue, NW
Washington, DC 20460
[Title VI Complaints@epa.gov](mailto:Title_VI_Complaints@epa.gov)

Complaint against:

Bristol-Myers Squibb
6000 Thompson Rd
East Syracuse, NY 13057
(315) 432-2000

I am filing complaint against Bristol-Myers Squibb (BMS) of Syracuse, New York for 1. Racial Discrimination Employment Termination without cause for being a black male 2. Breach of Payment contract retaliation for filing racial discrimination complaint and 3. Hiring Retaliation after filing racial discrimination complaint.

1. Racial Discrimination Employment Termination without cause for being a black male

In February 2017 I signed a contract to work for Bristol-Myers Squibb (BMS) for 6 months starting in July 2017 and not an at will employment agreement. On July 10, 2017 I started my 1st day of work at Bristol Myers Squibb of Syracuse, NY and was given a contract employee policy manual. Per policy, BMS is required to give me an ID badge after attending a on-site orientation which I did (Exhibit 1) but BMS refused.

The next morning, July 11, 2017, I politely asked BMS for my policy required ID badge and was verbally reprimanded for not having one by a Caucasian male security guard. During the afternoon of July 11, 2017 BMS issued me an ID badge.

On July 12, 2017 (b) (7)(C) - Enforcement Privacy informed me via telephone BMS terminated my employment for no cause, no policy violation, no performance issues nor warnings and I will receive the remainder of my 6 month BMS per contract. Please note, I was the only black person in my orientation group and BMS Syracuse employs less than a handful of black employees out of hundreds of employees. I was also informed by (b) (7)(C) - Enforcement Privacy that BMS refused to give me a termination letter.

In addition, I completed all assigned tasks to date, received perfect scores on all BMS exams as we only did computer training up to that point.

2. Breach of contract retaliation for filing multiple racial discrimination complaints

On July 13, 2017 I filed a racial discrimination complaint over the termination of my employment with BMS (b) (7)(C) - Enforcement Privacy via voicemail and followed up via email on July 19, 2017 as she has been ignoring me (Exhibit 2). On July 17, 2017 I filed racial discrimination complaint against BMS with the New York Department of Labor (NYDOL) to receive unemployment insurance. NYDOL referred my racial discrimination complaint to BMS on July 17, 2017 for a response. On July 17, 2017 the New York Department of Labor determined I did not violate any policies, have any performance issues, was racially discriminated against and forced BMS to pay me unemployment insurance.

On July 21, 2017 I first became aware BMS breached the terms of my ***non-at-will 6 month employment contract*** by only paying me for 3 days work without negotiation and not the 6 month contract balance (Exhibit 3) in retaliation to my July 13th, 17th and 19th 2017 racial discrimination complaints. I was previously informed on July 12, 2017 I would receive the remainder of my 6 month pay by (b) (7)(C) - Enforcement Privacy

3. Hiring Retaliation after filing multiple racial discrimination complaints

After I was hired at BMS I was in strong contention for a higher paying permanent BMS position in which I completed an interview (Exhibit 4). In retaliation for my July 13th and 17th 2017 racial discrimination complaints BMS removed my candidacy for the position I interviewed for on July 18, 2017 (Exhibit 5).

Sincerely,

(b) (7)(C) - Enforcement Privacy

EXHIBIT 1



BRISTOL-MYERS
SQUIBB

CONTRACTOR
ENVIRONMENT,
HEALTH AND
SAFETY HANDBOOK

SYRACUSE
OPERATIONS

X.	Site Utilities	50
A.	Excavations	50
B.	Fire/City Water Use	51
C.	Utility Interruptions/Use/Tie-ins	51
XI.	Good Manufacturing/Laboratory Practices	53
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I. INTRODUCTION

Welcome to the Bristol-Myers Squibb (BMS) Company, Syracuse facility. Bristol-Myers Squibb is a leader in the biopharmaceutical industry. We take great pride and go to great lengths in developing, testing, marketing and producing safe products of superior quality. It is our Pledge to "extend and enhance human life by providing the highest-quality health care products."

As part of our concern for the quality of life, Bristol-Myers Squibb has a great respect for the safety and health of its employees and the environment in which we operate. This same level of commitment is expected of all people performing work at our facility.

Contained in this handbook are general guidelines and requirements for all contractor personnel to follow while working at this facility. These include:

- Use of site facilities and utilities
- Permit requirements
- Housekeeping
- Security and Safety requirements
- Environmental requirements
- Construction practices
- Good Manufacturing/Laboratory Practices

Everyone has an important role to ensure that the BMS Syracuse site is a safe workplace. BMS's obligations are to maintain safe facilities and inform contractor personnel and other visitors of the site safety requirements and any potential work area hazards due to BMS operations. Your obligations are to:

- Follow regulatory and site requirements
- Ask for help or guidance if you are unclear about site requirements

II. SITE SECURITY

A. ACCESS TO THE FACILITY

Typical contractor hours of operation: 6:30 AM to 5:00 PM; Monday to Friday (excluding holidays). Approval for off-hours work must be coordinated through your BMS contact. Your BMS contact is either a BMS employee or designee who is responsible for oversight of your project. This person often is a project engineer, maintenance planner or area supervisor.

Like all contractor personnel, you will receive an identification badge after attending a site orientation. Wear the ID badge at all times when on BMS premises. The badge shall be displayed at waist level or above and shall be visible at all times.

Access to project work areas will be limited to foot access unless vehicle access has been authorized by your BMS contact or Security.

Report directly to the project work site after sign-in. Your BMS contact will identify areas that you are authorized to access. Any person found wandering from these areas may be dismissed from the BMS site. If you encounter a locked door to a building or room, that you believe you need access to, contact your BMS project contact or Security. Never prop open doors to regain access.

B. CONFIDENTIALITY

Any information concerning the operations that you either observe or are informed of shall not be disclosed to non-BMS employees beyond your company's personnel and other approved contractors and subcontractors.

C. DELIVERIES/REMOVAL OF MATERIALS

All delivery or removal of materials for your work area shall be cleared through your BMS contact.

D. EMPLOYEE CONDUCT

While at this site, everyone is expected to display only professional, courteous behavior. The following items shall not be tolerated and **may** result in removal from the BMS site and/or prohibition from future work at this or any other BMS site:

- Any form of discriminatory harassment of anyone in the work place on the basis of gender, race, color, religion or national origin
- Possession of firearms or other weapons
- Offensive language and/or rowdy behavior
- Disregard for property
- Disregard for the civil rights of others
- Any violation of the content of this handbook or other communicated requirements

The following violations of the site rules **will** result in immediate expulsion from the site:

- Possession of alcoholic beverages and/or illegal or controlled substances
- Smoking in unauthorized areas
- Theft

E. IN-PLANT VEHICULAR TRAFFIC

Contractor vehicle access for in-plant use requires prior authorization and clearance by your BMS contact or Security.

The site speed limit is **15 miles per hour** and is strictly enforced.

Pedestrians always have the right-of-way.

Authorized vehicles shall only be parked in areas designated by your BMS contact. Avoid parking where traffic safety postings will be blocked from view. Do not

For All Emergencies..Dial 2300
[Outside Line: (315) 432-2300]

BRISTOL-MYERS SQUIBB
CONTRACTOR
SAFETY CARD

Video Orientation

(b) (7)(C) - Enforcement Privacy

Issue Date: 7/10/17

Card Expires: 11/10/18

SPECIFIC SITE TRAINING	DONE BY	DATE

(To be completed by authorized Bldg. Personnel)

WORK SAFELY

Direct any safety questions to
your BMS contact or call Security
at extension 2121 (432-2121).

*Contractors present on site are required to
attend periodic Contractor Safety Meetings.*

Signs will be posted at site entrances.

Attendance is mandatory when on site.

F-43-00

April 2012

(b) (7)(C) - Enforcement Privacy

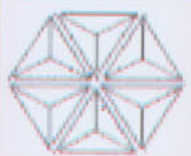


EXHIBIT 2

Complaint Follow up

(b) (7)(C)

Wed 7/19/2017 7:14 PM

To: (b) (7)(C) - Enforcement Privacy

(b) (7)(C) - Enforcement Privacy

I am following up on my racial discrimination complaint filed with you on July 13, 2017.

(b) (7)(C) - Enforcement Privacy

(b) (7)(C) - Enforcement Privacy

(b) (7)(C) - Enforcement Privacy

454

connections

Sr HR Coordinator at Bristol-Myers Squibb
Syracuse, New York Area | Human Resources

Current Bristol-Myers Squibb
Previous Wal-Mart, SUNY Oswego
Education State University of New York College at Oswego

(b) (6) - Privacy, (b) (7)(C) - Enforcement Privacy

(b) (7)(C) - Enforcement Privacy

[See all activity](#)

Experience

Sr HR Coordinator

Bristol-Myers Squibb

May 2007 – Present (10 years 4 months) | Syracuse, New York Area



- Provide front-line HR support and first-level response to employee population (500-800 FTE's), while supporting HR self-service model
- Interface and collaborate with all levels of management, providing varying levels of HR/administrative guidance and support
- Coordinate large and complex special projects, maintaining a high degree of confidentiality (data gathering and reporting for re-organization, workforce planning, employee separations and affirmative action)
- Maintain HR metrics and reporting for site scorecards, leveraging reporting and analytics from HRIS (Workday) system
- Support succession planning, performance evaluation and employee promotion processes and discussions
- Provide HR Policy guidance and interpretation and administer human resource plans and procedures, in accordance with legal, divisional and corporate guidelines, including: the corporate people strategy, site and corporate diversity initiatives, EEO practices, reward and recognition systems to drive performance and behaviors, and site safety programs
- Administer site training plan supporting people strategy and strategic plan of the organization
- Collaborate with COE process experts and local/regional HR teams to execute HR processes (i.e. recruitment, compensation planning, talent movement and restructurings)
- Conduct weekly new employee on-boarding orientations
- Perform diverse department administrative functions
- Manage and administer HR SharePoint site and daily employee communication portal
- Provide administrative support to Site HR Director and HR Business Partner
- Lead Summer Intern Program for site cross-functional departments
- Lead coordination of on/off site employee engagement events such as annual clambake, company picnic, food drives, patient visits and employee activities
- Interface as Area Bldg. Supervisor/Alternate for Emergency Evacuation process

[View this profile in another language](#)

People Also Viewed



Chandler Loyd
Marketing Intern at 1% for the Planet



Amy Pushlar Sherwood



Daniel Mendoza
Director of Assay Development at TOMA Biosciences



Pete Quinn, SPHR, SHRM-SCP
Human Resources Manager



Jody Scott
Manufacturing Supervisor at Bristol-Myers Squibb



Jamaison Pilgreen
Army(Retired) Human Resources, Recruiter, Career Counselor, Employee Relations Manager



Debra Dunham
Sr. HR Business Partner, Global Supply Chain, Quality and R&D at Welch Allyn



Cheryl Ascenzi, MBA
HR Business Partner at Bristol-Myers Squibb



Wendy Powers, MA, SPHR, SHRM-SCP
Director of HR at ACR Health



Mallory Doherty PHR, SHRM-CP
HR Generalist at Tomra North America, Inc.

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Last Name



Example: [Kim Maloney](#)



Kim Imbrogno-Maloney
Talent Acquisition at Siemens United States



Kim Maloney
United States



Kim Maloney
Director of Corporate Operations at Shorelight Education United States



Kim Maloney
Director of Advancement, Trinity Catholic High School United States

Secure Message

Date: 07/17/2017 12:31 PM

From: Department of Labor

To: (b) (7)(C) - Enforcement Privacy

Priority: NORMAL

Subject: This is an important message about the Unemployment Insurance claim that you just filed

We have received the claim you recently filed on our website. However, you need to speak to an agent to complete it as soon as possible.

To do this, please call our Telephone Claims Center toll free at 888-209-8124. Select your language, then press 9 for the Main Menu. At the Main Menu, press 2 - "To complete your claim..." Please follow the instructions and wait on the line until a representative is available to help you.

Official Record of Benefit Payment History

Current Claim

Name:	(b) (7)(C) - Enforcement Privacy
Social Security Number:	
Start/Effective Date:	07/17/2017
Benefit Year Ending Date	07/22/2018
Weekly Benefit Amount:	(b) (7)(C) - Enforcement Privacy
Maximum Amount Payable:	
Effective Days Remaining:	

Latest Transaction(s) as of 08/26/2017

- You last certified for benefits for the week ending 07/30/2017.
- Your payment for the week ending 07/30/2017 was released on 08/08/2017.

Effective Days

Each day in a week (Monday through Sunday) that you qualify for benefit is called an effective day. There is a maximum of 4 effective days each week, and you must qualify for all 4 effective days in order to receive your total weekly benefit rate. For each day in the week that you are not eligible to receive benefit, you will receive one less effective day, which is equivalent to one fourth of your weekly benefit rate. For example, if you are not available to work one day in a week, or if you have worked any part of a day, or have received vacation or holiday pay for one day in a week, your benefit will be reduced by one effective day (the same as one quarter of your benefit rate). You can receive a maximum of 104 effective days on your claim.

If three days have passed since a payment was released and the funds are not in your account, you should contact KeyBank Customer Service at (866) 295-2955 if you have a debit card. If you have direct deposit, contact your bank. If there is a holiday in a given week, payments may be delayed by one day that week.

Payment History

(b) (7)(C) - Enforcement Privacy

Syracuse, NY 13210

(b) (7)(C) - Enforcement Privacy

July 17, 2017

Department of Labor
PO Box 15130
Albany NY 12212-5130

Complaint against:

Bristol-Myers Squibb
6000 Thompson Rd
East Syracuse, NY 13057
(315) 432-2000

I am filing a racial discrimination complaint against Bristol-Myers Squibb (BMS) of Syracuse, New York for termination of employment on July 12, 2017 without cause for being a black male.

1. Employment Discrimination

On June 5, 2017 I signed a contract with an independent contractor to work for Bristol-Myers Squibb (BMS) for 6 months starting in July 2017, with the potential of being offered the full time BMS positions in which I already interviewed.

On July 10, 2017 I started my 1st day of work at Bristol Myers Squibb of Syracuse, NY and was given a contractor policy manual. Per policy, BMS is required to give me an ID badge after attending a site orientation which I did (Exhibit 1) but BMS refused.

The next morning, July 11, 2017, I asked BMS for my policy required ID badge and but BMS refused. During the afternoon of July 11, 2017 BMS issued me an ID badge.

On July 12, 2017 (b) (7)(C) - Enforcement Privacy informed me BMS terminated my employment for no cause, no policy violation, no performance issues nor warnings as I completed all assigned tasks to date received perfect scores on all BMS exams as we only did computer training. On July 13, 2017 I filed a racial discrimination complaint with with BMS Senior Human Resources Coordinator (b) (7)(C) - Enforcement Privacy and to find out why I was terminated. To date, (b) (7)(C) - Enforcement Privacy has not provided a response to my racial discrimination complaint nor why I was terminated (Exhibit 2).

After learning of management and other evaluators' **confirmed white supremacist** activity through social media of displaying images of Adolph Hitler, swastikas, confederate flags, hateful images of black people and touting guns I understand why I was terminated without cause for being black (Exhibit 3).

Sincerely,

(b) (7)(C) - Enforcement Privacy



Unemployment Insurance



Unemployment Insurance A Claimant Handbook

October 2016



A Division of the New York State Department of Labor

The New York State Department of Labor is an Equal Opportunity employer and program provider. Auxiliary aids and services are available upon request to individuals with disabilities. This booklet is issued by the NYS Department of Labor. It contains general information about your rights, responsibilities, and benefits under the NYS Unemployment Insurance laws. The information is not intended to cover all provisions of the law.

If you are not sure if you are qualified to receive Unemployment Insurance benefits, you should still apply as soon as possible. We will determine if you are eligible.

1. What is Unemployment Insurance?

Unemployment Insurance is temporary income for eligible workers who become unemployed through no fault of their own. Unemployed workers who are receiving Unemployment Insurance benefits are sometimes referred to as “claimants.” You will see that term used throughout this handbook and on our website.

You can receive Unemployment Insurance benefits for a maximum of 26 full weeks during a one-year period called a “benefit year.”

In New York State, employers pay for benefits, not workers. No deductions are taken from workers’ paychecks for Unemployment Insurance.

2. How do I know if I am eligible to receive Unemployment Insurance benefits?

If you are not sure if you are qualified to receive Unemployment Insurance benefits, you should still apply as soon as possible. We will determine if you are eligible.

What are the requirements to receive benefits?

You can apply for Unemployment Insurance benefits (file a claim for benefits) if you have worked in New York or another state. In order to receive benefits, you must:

- Have lost employment through no fault of your own;
- Have enough prior earnings from employment to establish a claim;
- Be ready, willing and able to work immediately; and
- Be actively seeking work and keep a record (online or written) of your efforts for each week you claim benefits.

What are some of the reasons I could be denied benefits?

You must meet the requirements set by law to receive Unemployment Insurance benefits. You cannot get benefits if you have less than the required work history and wages to establish a claim as discussed on pages 8 – 14:

“How much will I receive in benefits each week?” Other reasons your claim could be denied include:

1. Voluntary quit and discharge: You will be disqualified from receiving Unemployment Insurance benefits if we determine that:

- You quit a job without good cause; or
- You were discharged (fired) for misconduct.

*To reach the Telephone Claims Center, please call (888) 209-8124. TTY/TDD users: call a relay operator at (800) 662-1220 and ask the operator to call (888) 783-1370. Video or other types of relay service users contact your relay operator and ask the relay operator to call (888) 783-1370.

EXHIBIT 3

RTR / Rate Confirmation for the position of Biologics Process Operator located at East Syracuse, NY – 13057 Job Code: 20348-1

(b) (7)(C) - Enforcement Privacy

Wed, Feb 22, 2017 at 5:07 PM

I just need to confirm few details from you.

- Availability for Interview?
- Any Interview or offers lined up?
- How soon you can start with us?

Glad we got to speak over the phone. Please fill in your first name----- and last name -----
-----.

Please attach your updated resume also in the email.

In order to avoid any duplicate submittals of my resume, please acknowledge the following statements and send your confirmation.

I acknowledge the exclusive right of spectra force technologies to consider my profile for the position **Biologics Process Operator located at East Syracuse, NY – 13057 Job Code: 20348-1** .

i agree to work at (b) (7)(C) - Enforcement Privacy on w-2 for the **06 months** contract.

- i agree on the payment terms of Bi weekly basis.
- i will be available for an in-person/telephonic/ or Skype interview when the interview request occurs.

I further agree not to submit my resume through any other agency for this specific “**Bristol Myers Squibb**”.

Note: as discussed, if you are selected for this position, you will be required to complete and pass a pre-employment background verification screening and drug test. If these pre-employment screenings are returned with unsatisfactory results based on spectrafence's policies and/or the client's policies, you may not be considered for the position applied for.

Here is the job description

Title: Biologics Process Operator

Location: East Syracuse, NY – 13057

Duration: 06 months

Job Responsibilities:

- Operates control systems and processes in Biotechnology Pilot Plants as assigned. Prepares process buffers and reagents.
- Cleans equipment and maintain area in clean and orderly fashion.
- Recognizes and reports safety, maintenance and operational variances to area management.
- Communicates status of operations to area management in a timely manner.
- Follows detailed SOP's and batch records. Ensures compliance with cGMP and safety requirements.
- Maintains files, records and equipment. Records data, logs activities and monitors processes. Achieves and maintains proficiency through training.

Qualification:

- The successful candidate will have a high school diploma with a minimum of 5 years process operations experience A.A.S. or B.S. degree is preferred.
- Prior job related experience required along with demonstrated mechanical aptitude.
- Familiarity with general chemistry, mathematics, microbiology and cGMP clean room operations is a plus.
- The nature of the position demands keen attention to detail.
- Prior experience following and documenting written instructions is required.
- Committed team player prepared to work in and embrace a team based culture.
- Shift work and overtime required.

- Selected candidates will be required to enter a structured training program and successfully complete all modules including Biologics orientation training, general knowledge training and job function training and successfully complete training module evaluations at 1, 3, 6 and 12 month milestones.

Sincerely,

Thanks & regards,

(b) (7)(C) - Enforcement Privacy



(b) (7)(C) - Enforcement Privacy

Benefits Memo(2017).pdf

207K

Offer Package - (b) (7)(C) - Enforcement Privacy

Mon, Jun 5, 2017 at 11:23 AM

(b) (7)(C) - Enforcement Privacy

(b) (7)(C) - Enforcement Privacy

Congratulations on being selected for the position of Biologics Process Operator by our client, BMS. We are delighted to have you join the Spectraforce team. My name is (b) (7)(C) - Enforcement Privacy and I am the Onboarding Specialist who will assist you through your hiring process.

If you have any questions or concerns during the onboarding process, please reach out to (b) (7)(C) - Enforcement Privacy as we will be the best resource to answer your questions as your employer. Please do not directly contact the client.

Please login to our website, (b) (7)(C) - Enforcement Privacy using the link we have provided, in order to process and complete all the required paperwork for both (b) (7)(C) - Enforcement Privacy and BMS. We have provided you with a username and password for Spectranet below. You must complete your forms before the credential expiration date listed.

**Please note that (b) (7)(C) - Enforcement Privacy works best with Google Chrome.

Please login to (b) (7)(C) - Enforcement Privacy with the following User name & Password:

Username :

Password :

(b) (7)(C) - Enforcement Privacy

These credentials Expire at Midnight on : 15-Jun-2017 at 23:59:59

****** Please note that you will receive a very important email from our electronic I-9 form vendor, Form I-9 Compliance.**

Upon receipt this email, please follow the instructions and **take immediate action** to complete your I-9.

Please complete **Section 1** of the I-9 form **as soon as possible**. **Section 2** of the form must be completed by a Verifier/Agent you select.

Please make sure to review the I-9 Acceptable Documents List in (b) (7)(C) - Enforcement Privacy beforehand so that you can present the sufficient documents to the Verifier/Agent when you meet him/her in-person.

If this has not been completed within 3 days of your start date with (b) (7)(C) - Enforcement Privacy you are at risk of being pulled from your assignment.

If you have any questions on your paperwork please feel free to contact me. For any escalations related to onboarding, please reach out to (b) (7)(C) - Enforcement Privacy

If you are interested in learning more about the benefits (b) (7)(C) - Enforcement Privacy offers, please see the resources tab on the home page.

If you have any questions, please feel free to contact me

Thank you

(b) (7)(C) - Enforcement Privacy

EXHIBIT 4

Opportunity with Bristol-Myer Squibb

(b) (7)(C) - Enforcement Privacy

Wed 5/17/2017 3:38 PM

To (b) (7)(C) - Enforcement Privacy

Hello (b) (7)(C) - Enforcement Privacy

I saw you applied with Bristol Myers Squibb to the Purification Process Operator Trainee position. I would like to discuss this opportunity with you. I would love to schedule some time with you to discuss (job number (1701815)). You will phone interview with myself (b) (7)(C) - Enforcement Privacy

Please click on the link below to schedule a time that is convenient for you:

<https://bms.recsolu.com/external/requisitions/LYxnZZuCP RyVUc05ZTmB9g>

Looking forward to speaking with you.

Kind regards,

(b) (7)(C) - Enforcement Privacy

Come join me: www.bms.com/careers

Together, we make the difference.

BMS.COM/CAREERS



This message (including any attachments) may contain confidential, proprietary, privileged and/or private information. The information is intended to be for the use of the individual or entity designated above. If you are not the intended recipient of this message, please notify the sender immediately, and delete the message and any attachments. Any disclosure, reproduction, distribution or other use of this message or any attachments by an individual or entity other than the intended recipient is prohibited.

EXHIBIT 5

Bristol-Myers Squibb - Thank you for your interest

Bristol-Myers Squibb <hr-bms@invalidemail.com>

Tue 7/18/2017 8:57 AM

To: (b)(7)(C) - Enforcement Privacy

📎 1 attachments (2 KB)

this_message_in_html.html;



Bristol-Myers Squibb

Dear (b)(7)(C) - Enforcement Privacy

Thank you for your interest in the Purification Process Operator Trainee (1701815) position at Bristol-Myers Squibb Company. Unfortunately, we are not able to move forward with your candidacy at this time. Your resume will remain active in our database.

We also invite you to visit our career site to learn more about career opportunities at Bristol-Myers Squibb, www.bms.com/careers.

Sincerely,
Human Resources
Bristol-Myers Squibb

Please do not reply to this message. Replies are undeliverable and will not reach the Human Resources Department.

Bristol-Myers Squibb - Thank you for your interest

Bristol-Myers Squibb

Tue 7/18/2017 1:19 PM

To (b)(7)(C) - Enforcement Privacy

1 attachments (2 KB)

this_message_in_html.html;



Dear (b)(7)(C) - Enforcement Privacy

Thank you for your interest in the Quality Assurance - Field Operations (1702713) position at Bristol-Myers Squibb Company. Unfortunately, we are not able to move forward with your candidacy at this time. Your resume will remain active in our database.

We also invite you to visit our career site to learn more about career opportunities at Bristol-Myers Squibb, www.bms.com/careers.

Sincerely,
Human Resources
Bristol-Myers Squibb

Please do not reply to this message. Replies are undeliverable and will not reach the Human Resources Department.

Bristol-Myers Squibb - Thank you for your interest

Bristol-Myers Squibb

Tue 8/22/2017 5:31 PM

To: (b)(7)(C) - Enforcement Privacy

📎 1 attachments (2 KB)

this_message_in_html.html;



Dear (b)(7)(C) - Enforcement Privacy:

Thank you for your interest in the Training Document Control Coordinator (1702636) position at Bristol-Myers Squibb Company. Unfortunately, we are not able to move forward with your candidacy at this time. Your resume will remain active in our database.

We also invite you to visit our career site to learn more about career opportunities at Bristol-Myers Squibb, www.bms.com/careers.

Sincerely,
Human Resources
Bristol-Myers Squibb

Please do not reply to this message. Replies are undeliverable and will not reach the Human Resources Department.

Create Control - Data Entry

Control Number: OCR-16-001-1822 Alternate Number:

Citizen Information

Citizen/Originator: 1). Bondi, Pamela - The Capitol, PL 01, Tallahassee, FL 32399

 Search Citizen

Constituent:

 Search Constituent

Committee:

Sub-Committee:

Control Information

Status:

 Pending *

Letter Date:

 Aug 19, 2016

Received Date:

 Aug 30, 2016

Contact Type:

 LTR (Letter) *

Priority Code:

 Normal *

Addressee:

 (+)

Addressee Org:

File Code:

 401_127_a General Correspondence Files Record copy

Signature:

 (+)

CC:

 Search CC

Signature Date:

 Aug 19, 2016

Primary Subject:

 Tallahassee Office of the General Counsel's referral of correspondence received from (b) (6), (b) (7)(C) regarding violations involving hazardous conditions in Jacksonville, FL

(+)

Secondary Subject:

(+)

Instructions:

(+)

Instruction Notes:

General Notes:

*: Required field

(+): Lookup field, press space bar for complete list

 Save Continue and Assign Cancel



PAM BONDI
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Office of Citizen Services
The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3990
Fax: (850) 410-1630

August 19, 2016

(b) (6), (b) (7)(C)

Jacksonville, Florida 32208



Dear (b) (6), (b) (7)(C)

Thank you for your correspondence to Florida Attorney General Pam Bondi regarding Fairway Oaks in Jacksonville.

We appreciate that you consider this office as a source of assistance. I understand that concerned residents have been in contact with the Florida Department of Environmental Protection, the Florida Department of Health, the U.S. Environmental Protection Agency, and the City of Jacksonville, which are the appropriate authorities to address this matter. We are forwarding a copy of your correspondence to those agencies to ensure they are aware of your ongoing concerns. To follow up with those agencies contact:

Florida Department of Environmental Protection
Telephone: (850) 245-2118
Website: www.dep.state.fl.us

Florida Department of Health
Consumer Services Unit
Phone: (850) 245-4339
Toll-free in Florida: (877) 425-8852
Website: www.floridahealth.gov

Environmental Protection Agency
Telephone: (202) 272-0167
Toll-free: (800) 241-1754
Website: www.epa.gov

City of Jacksonville
Planning & Development
Phone: (904) 255-7800
Website: www.coj.net/departments/planning-and-development.aspx

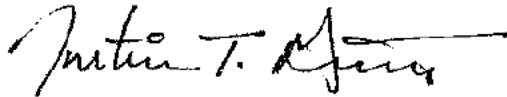
Because our office is not at liberty to give legal advice or opinions to individual citizens, please consult a private attorney if you need legal guidance. If you need help finding a lawyer, contact The Florida Bar's

Lawyer Referral Service toll-free at (800) 342-8011, or online at www.floridabar.org. If you are unable to hire an attorney at this time, legal assistance may be available to you through your local legal aid office. If you have not done so already, contact Jacksonville Area Legal Aid, Inc., for more information at:

Jacksonville Area Legal Aid, Inc.
126 West Adams Street
Jacksonville, Florida 32202
Phone: (904) 356-8371
Toll-free: (866) 356-8371
Website: www.jaxlegalaid.org

Thank you for contacting Florida Attorney General Pam Bondi's Office. We hope this proves helpful to you.

Sincerely,



Martin T. Green
Office of Citizen Services

cc: Florida Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Florida Department of Health
Consumer Services Unit
4052 Bald Cypress Way, Bin C75
Tallahassee, Florida 32399-3275

Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, Northwest
Washington, D.C. 20460

City of Jacksonville
Planning & Development
214 Hogan Street North
Jacksonville, Florida 32202

CS [unclear]

(b) (6), (b) (7)(C)

Help! Help! Help!

Jacksonville, FL 32208

(b) (6), (b) (7)(C)

Dear: Ms. Attorney General Pam Bondi, We pray that this letter reaches you in the middle of a Blessing in JESUS name.

The reason we are writing you is because we are in desperate need of your help, our health is at state!

We live in a subdivision call Fair way Oaks in Jacksonville, Florida this was a Joint venture between the city of Jacksonville, Habijax and HUD (department of housing and Urban development). The land was sold to Habijax from the city for one dollar, these 85 homes were built in 2000 in 17teen days and President Jimmy Carter came out and helped with the build.

We never thought that when we purchased our homes from Habijax in 2000, after completing more than 300 hours of labor for Habijax and making a \$500.00 deposit. That we would find ourselves sicker and weaker (breaking out in rashes, Asthma getting worst, battling uncontrollable Diabetes and fighting depression daily) dealing with cracking slabs, mold, mildew and living on a known land dump.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

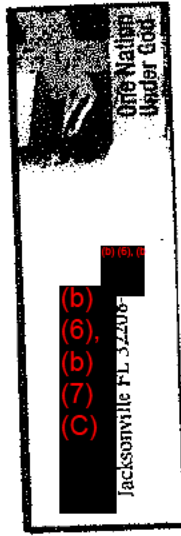
It brings tears to my eyes to live here and see our children, elders and ourselves dealing with all this hardship. Our prayers are that your office will help us relocate off this contamination site in JESUS Name Amen! Amen! Amen! Thank you for all your help in this matter, be bless. "Be strong in the Lord and in the power of His might."

You can go to channel 4 news in Jacksonville, FL and pull up all the coverage that been done on Fairway Oaks Community, also there were articles written in FOLIWEEKLY.COM in 2/13/2007 called Buyer's Remorse, and one in 4/2/2007 called Digging in with city council member Gwen Yates. In 2005 they found 5 feet of household garbage from 12 to 18 feet directly under the landfill. Thank you, in Christ service (b) (6), (b) (7)(C)

Please contact the current Homeowner association of Fairway Oaks Mr. Nathaniel Borden at (904-790-2642 or 904 790-2421) to help relocate us to another area in Jacksonville, Fl.

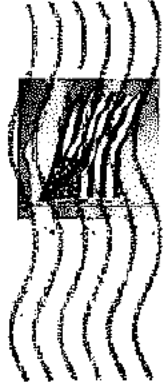
Thank you.

CC. My Pastor, Mayor, Legal Aide, Mr. Nathaniel Borden



JACKSONVILLE FL 32206

20 JUL 2016 PM 4 1



TO: Ms. Pam Bondi
Office of Attorney General
State of Florida
The Capitol PL-01
Tallahassee, FL 32399-1050
32399-702100

Create Control - Data Entry

Control Number: OCR-16-001-1822 Alternate Number:

Citizen Information

Citizen/Originator: 1). Bondi, Pamela - The Capitol, PL 01, Tallahassee, FL 32399

 Search Citizen

Constituent:

 Search Constituent

Committee:

Sub-Committee:

Control Information

Status:

 Pending

Letter Date:

 Aug 19, 2016

Received Date:

 Aug 30, 2016

Contact Type:

 LTR (Letter)

Priority Code:

 Normal

Addressee:

 (+)

Addressee Org:

File Code:

 401_127_a General Correspondence Files Record copy

Signature:

 (+)

CC:

 Search CC

Signature Date:

 Aug 19, 2016

Primary Subject:

 Tallahassee Office of the General Counsel's referral of correspondence received from (b) (6), (b) (7)(C) regarding violations involving hazardous conditions in Jacksonville, FL

Secondary Subject:

 (+)

Instructions:

 (+)

Instruction Notes:

General Notes:

*: Required field

(+): Lookup field, press space bar for complete list

 Save Continue and Assign Cancel



PAM BONDI
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STATE OF FLORIDA

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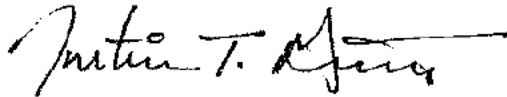
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Environmental Protection Agency
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Washington, D.C. 20460

City of Jacksonville
Planning & Development
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Jacksonville, Florida 32202

CS [illegible]

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

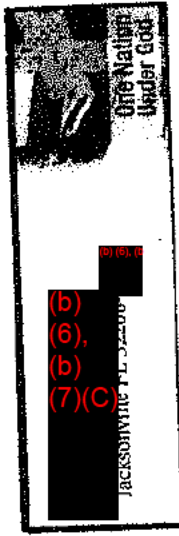
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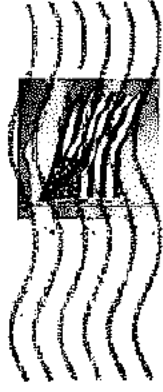
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CC. My Pastor, Mayor, Legal Aide, Mr. Nathaniel Borden



JACKSONVILLE FL 32000

20 JUL 2016 PM 4 1



TO: Ms. Pam Bondi
Office of Attorney General
State of Florida
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Tallahassee, FL 32399-1050
92559-702100

